

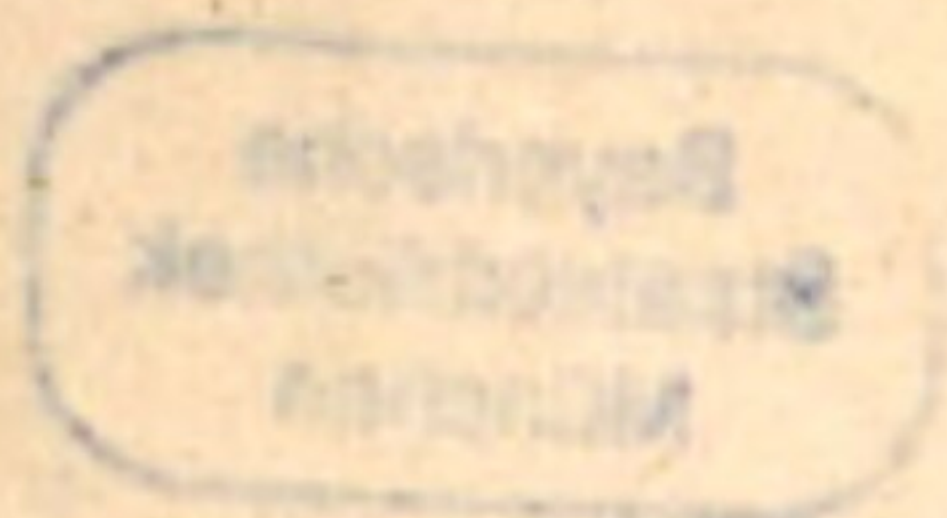
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Heywood

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OF THE
RANKS OF THE PEOPLE
UNDER THE
ANGLO-SAXON GOVERNMENTS.

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Edin.



A
DISSERTATION
UPON
THE DISTINCTIONS IN SOCIETY,
AND
RANKS OF THE PEOPLE,
UNDER THE
ANGLO-SAXON GOVERNMENTS.

By SAMUEL HEYWOOD,
SERJEANT AT LAW.

LONDON:
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DISSERTATION

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INTRODUCTION.

MAN is the creature of association and habit; his external conduct adapts itself to the manners of the society in which he lives, and even the faculties of his mind, yielding to the impression, he naturally contemplates the succession of past events with a constant reference to the occurrences of the present day. Hence the bulk of the people in every country, unable to extend their views beyond the narrow sphere of what passes within their own observation, or in their own time, disregard the faithful page of history, which delineates manners bearing little resemblance to their own. Even to men of the most enlarged and philosophic spirit it is an arduous undertaking to burst the fetters of habitual prejudices and feelings, and, in an age of civilization, form a just conception of that state of society which must have existed in preceding times, and in the infancy of refinement.

The universal experience of mankind has shewn, that political communities advance in an almost regular progression from the rudest state of society to the highest of civilization; and when they have attained the summit of human perfection, as regularly decline into corruption, and sink into final ruin. Such has been the fate of all the empires, whose histories have been recorded, and such is the lot inevitably awaiting all those which now flourish on the earth. In the course of these changes, some of the principles and maxims on which a government was at first constructed, must necessarily be entirely thrown aside, and others altered and disfigured, so that, from the existing state of any ancient constitution, the principles on which it was originally framed can be only imperfectly traced and developed. The English constitution, for instance, is composed of the remains of doctrines and systems long since obsolete and laid aside, but which, having prevailed for a time, have left behind them some of the leading features of our laws. The division of shires, the office of sheriff, the county-court, and the trial by jury, may be reckoned

among the most ancient relics of our national jurisprudence, and an æra of great antiquity has been commonly assigned for the introduction of the feudal system, to which, in all its severity, the whole landed property of England was subjected until the reign of Charles the second, and under which, “deprived of its slavish incidents,” it is all held at the present day.

The history of our Saxon ancestors is involved in much uncertainty and confusion, and the laborious researches of antiquaries have only furnished us with rude and imperfect sketches of their government and manners. The warlike nations of the north were probably of eastern origin. Sweden, Denmark, Norway and Germany were among their conquests, and from the similitude of language, manners, and laws, still existing among the inhabitants of these countries, it is evident that they had all one common origin. From these bleak regions swarms of hardy warriors descended into more genial climates, and made themselves, at various times, masters of the greatest part of Europe. They did not fight for plunder, or even for glory; they emigrated in large

bodies, accompanied by their families, in search of more convenient habitations, and when they had obtained a victory seized the lands of the vanquished, and made them their future residence. Such instances are not unfrequent in ancient history. The Helvetians, when they invaded Gaul, burnt their own habitations, and set out with their wives and children. Their numbers amounted in all to 360,000 persons^a. The Belgians, who derived their origin from Germany, having passed the Rhine, were tempted by the fertility of the soil to settle there, and drove out the Gauls, who then inhabited the country^b. The Cimbrians, when they invaded Italy and attacked Rome, brought with them their wives and families, with intent to settle in the south, and requested lands from the Romans. They had left their own country (at present Sleswick and Jutland) so entirely depopulated, that at the end of two centuries, Tacitus speaks of its insignificance :—*Parva nunc civitas, sed gloriâ ingens, veterisque famæ late vestigia manent*^c.

^a *Cæsar de Bell. Gal. lib. 1. c. 11.*

^b *Ib. lib. 2.*

^c *Mor. Ger. 37.*

Instances of similar emigrations may be found in modern times. In the year 1758 some Burats and Kalmucks fled to Siberia, and in 1759 20,000 more followed their example. In the year 1770 a large body of Kalmucks, with their wives and children, deserted the banks of the Volga, carrying with them their flocks, and settled themselves on the borders of China, under its protection. They consisted, as the Chinese reckoned, of 130,000 families; but Tooke thinks the number exaggerated, and that when they set out they could not exceed 50,000 or 60,000 families, and a great part were taken prisoners on their march. They set out at the end of 1770, and reached their place of destination in the summer of 1771^a.

The forces which accompanied Hengist and Horsa to this country in the year 449, were partly Saxons from Lower Saxony, Angles from the dutchy of Sleswick in the neighbourhood of Flensburg, still called Angelen, and Jutes from Jutland, with adventurers from neighbouring tribes, particularly Frizians^b. The countries whence the

^a 4. Tooke's Russia, 209, 251.

^b 1. Mallett's North. Ant. p. 260.

Angles and Jutes came, were afterwards included in the kingdom of Denmark, and when the Danes infested this island, three or four hundred years afterwards, they had to war against the descendants of their own ancestors.

The Angles who came with the first armament could not be very numerous, for William of Malmsbury and Henry of Huntingdon agree that both they and the Saxons were brought over in three long ships^a, but the Angles followed in such numbers that their own country was reduced to a mere desert, and continued destitute of inhabitants for two centuries, i. e. till the time of Bede.

The ancestors of these invaders (whom Tacitus includes under the general name of Germans) must have been little advanced towards civilization when, according to his description, there was no private property in land, but all cultivated it by turns, and afterwards divided it among them according to their respective ranks in the state; in the extensive plains of Germany, he adds, that no inconvenience arose from this arrangement,

^a *Will. Malm.* 3. *Hen. Hunt.* 178.

and notwithstanding they changed their land every year, their territory was not exhausted ^a.

The system by which the northern nations were governed left to the higher ranks of the people a great degree of political freedom. Cæsar describes the Germans as having no kings but in time of war, and elected for that purpose ^b. Tacitus says, their kings were chosen in their great councils, for their noble birth ^c. Bede tells us that the chiefs of the Saxons, when pressed by war, drew lots among themselves to determine who should be their leader, and that, after the war was put an end to, they all became again of equal power ^d. That such was the practice of the Saxons on the Continent down to the ninth century, appears from other authorities, and their war kings, upon the return of peace, were in the habit of resuming their former less exalted situations. In the cha-

^a *De mor. Germ.* c. 26. ^b *De Bell. Gall. lib.* 6. c. 21.

^c *Reges en nobilitate, duces ex virtute sumunt. Nec regibus infinita aut libera potestas, et duces exemplo potius quam imperio, si prompti, si conspicui, si ante agmen agant admiratione præsent.*

^d *Hist. Eccles. lib.* 5. c. 10. p. 192.

racter, therefore, of war kings we may presume that Hengist and Horsa first invaded this country, and that their successors were elected, until the Saxon power was firmly established. The chiefs afterwards reluctantly submitted to the introduction of an hereditary monarchy, and occasionally exercised their right to elect a sovereign, though they generally chose him from the family of his predecessor.

Tacitus observes, that among the Germans their military leaders were elected by the chiefs from among themselves, and the principal qualification was personal valour. Long after the regal dignity had become in some degree hereditary, the post of a military commander continued elective, and at the time of the Norman conquest hereditary dukes and earls were probably not known in England.

Such nobles as were not dignified by military rank, together with the inferior landholders, attached themselves to the king, or the duke or earl of the district in which their property lay. The relation of lord and vassal was introduced, and rents and services on the one side

made the price of protection on the other. In the infancy of this system, the vassals enjoyed a larger portion of independence than when it was more perfectly established ; their rights, though undefined, and, as against their lords, in a great degree unprotected, yet were treated with respect and indulgence. The sovereign was restrained in the exercise of his power by the fear of offending his chiefs, while they were obliged to act with circumspection and forbearance, because upon their popularity depended the number of their followers in the field, and their influence in the state.

When the Saxons conquered England, they brought with them the habits of life and forms of government to which they had been accustomed in their own country. Fierce in the exercise of arms, and impatient of controul, they scarcely considered their princes as their superiors, and only so far as interest or affection induced them, paid obedience to their commands. Upon the Continent war had been almost the sole object of their lives, and here they were devoted, for a great length of time, to the same pursuit ; indeed, during the whole heptarchy, there were seldom consider-

able intervals of peace. Thus occupied, the historian views them, not so much in the light of members of a civil community, as of individual warriors, bound only voluntarily, and therefore weakly to their leaders. But after all the rival states had been reduced into one kingdom, and the great Ælfred had established order in the police of the country, and instructed his subjects in the arts of peace, their civil relations to the sovereign and each other were better defined, and the restraints of a regular form of government gradually submitted to. These changes threw much power into the hands of the king and nobles, and the people in general lost much of their ancient importance. The feudal system, of which traces may be found long before the Norman conquest (if in an imperfect state it did not exist among the Saxons, even in their native forests), tended strongly to keep the lower orders at a distance from the higher, more especially as alterations and refinements were from time to time introduced from the Continent, all of which operated to elevate the lord, and depress the vassal.

In the following pages I shall not attempt to give a history of the English kingdoms, or a description of the manners, tenures, or forms of government among the Anglo-Saxons in the earlier periods of their power; my present object is confined to a delineation of the political state of the people at large about the time of the Norman conquest. Should this portion of my labours fortunately be received by the public with approbation, and health and spirits permit, it is my intention to follow it with a larger Treatise on the Anglo-Saxon Tenures in general, to which the present volume may be properly considered as an Introduction.

Many years ago I published a Treatise upon County Elections ^a, and in the progress of the work it became necessary to investigate the nature of socage tenure, under which almost all the freehold land of England is now held. Referring to the works of those great and learned men who have made the history and legal antiquities of their country their study, I was surprised to find them extremely deficient in the information

^a In the year 1790.

I was in pursuit of, and often contradictory in their statements and conjectures, not only to each other, but themselves. Disappointed in my hope of obtaining satisfaction from the labours of others, I determined to seek it for myself, and for that purpose applied to the study of Domesday-book, the Saxon Chronicle, and Wilkins' Anglo-Saxon Laws; as I advanced, the subject opened upon me, and an attempt to trace a single tenure has grown almost imperceptibly into a general treatise upon all the Anglo-Saxon tenures, and their accessaries. It would be highly presumptuous in me to offer the ensuing pages to the public as containing full and satisfactory information upon subjects which have eluded the researches of men of the greatest talents and learning, but the numerous quotations here collected together will afford a more complete view of the subject than can be found in at least any single writer.

Many of the topics touched upon in the following sheets have been agitated with much warmth and party-spirit, but it may be hoped they have ceased to interest the passions of man-

kind, and may now be discussed as dry points of law or antiquity, with candour and good temper. Determined to be the slave of no hypothesis, I threw aside all the authors who had previously written upon these subjects, and copied and collected for many years every passage, as it fell in my way, that was connected with them. The reduction into order of the great mass of papers thus brought together has been the occupation of many hours of leisure, and a pleasing source of information and amusement. It would be a tedious and an unpleasant, and by some deemed perhaps an invidious task, if I was to state the particulars in which this work will be found to differ from all those which have preceded it. Conscious of its many imperfections, I regret that it has not been in my power to make it more worthy of the indulgence of the public. *Occupati sumus officiis, subsecivisque horis ista curamus.*

I have already mentioned the three authorities on which I have chiefly relied. The first, Domesday-book, is one of the most venerable and authentic public documents existing in this or any other country. Antiquaries are not

agreed about the origin and derivation of the word "Domesday," which was not an appellation confined to this particular book or writing^a. There was a Domesday of Chester, another of the dean and chapter of York; and a Survey of all the manors belonging to the deanery of St. Paul's, taken in 1181, was called Domesday *Radulphi de Diceto*, who at that time was the dean. There was also a Domesday of the nuns of Haliwell^b.

^a Barrington, on the Statutes, p. 299, is dissatisfied with the usual derivation of Domesday, from words signifying the day of judgment, and mentions that Bullet, in his Celtic Dictionary, says "dom" in Celtic, means "sieur," or "sagnier," whence the Spanish "don;" and "deya," or "deia," signifies "proclamation," "avertissement." In this manner Domesday might mean a lord's advertisement to his tenants; but Upton, in his note on b. 1. canto 7. st. 26. of Spenser's Fairy Queen, produces instances of "daye" meaning "judgment," and Dr. Hammond says, that in the idioms of all languages, "day" has that signification. Du Cange, under the word *Dajenus*, says, *Inter Judæos vero est daien, id est judex*. May not the French word "doyen," and our "dean," be derived from the same origin? Cowell says, that in the north of England, a "daysman" is the name given to an arbitrator or judge. "Domesday" may then signify "the Lord's judgment," or "the supreme judgment."

^b General Introd. to Domesday, i.

In all these instances the name seems to have been given to surveys of land, and it may be observed, that in no one instance does the word "book" make part of it; it is Domesday, not Domesday-book.

The Survey in question was compiled by order of William the conqueror and his council; it was begun, probably, late in the year 1082, or early in 1083, and finished in 1086. If we may rely upon the testimony of Ingulphus, who was abbot of Croyland, and living at the time, this Survey was made in imitation of one taken long before by order of king Ælfred, in which the whole kingdom was described by its counties, hundreds, and tythings, and it also obtained the name of *Rotulus Wintoniæ*^a, from the survey of Ælfred being so called. But the modern Domesday was much more particular and minute, describing not only the counties, hundreds, tythings, woods, forests, and vills, but also how many carucates of land, oxgangs, and acres, pastures and marshes, and tenements and tenants were in-

^a *Hic est feudum Robti de Bruis, quod fuit datum postquam liber de Wintonia scriptum fuit, videlicet, &c. D. 332.b.*

cluded in them; and even the number of cattle and stock upon each farm was inquired into, though not inserted in the record itself. This was done with so much strictness, that Ingulphus asserts there was not a hyde in all England but the king knew the value and possessor of it, nor was there a lake or place which was not described, with the rents and profits, and its possession and possessor fully ascertained. The Saxon Chronicle also bears testimony to the minute exactness with which the inquisitions were made^a. We have

^a 1085. *Post hæc tenuit rex magnum concilium, et graves sermones habuit cum suis proceribus (with his witan) de hac terræ, quomodo incoleretur, et a quibus hominibus. Mittebat idcirco per totam Anglorum terram (eall Engla land) in singulos comitatus suos servos (his men) quibus permisit scrutari quot hydarum centenæ essent in comitatu, quidque rex ipse haberet terrarum et pecorum in eo comitatu, et quantum census annui deberet percipere ex eo comitatu. Permisit etiam describi quantum terrarum ejus archiepiscopi haberent, et diocesani episcopi, et ejus abbates, ejusque comites, et ne longior in hoc sim, quid aut quantum unusquisque haberet, qui terras possideret in Anglorum gente (innan Engla lande), sive terrarum, sive pecoris, quantumque illud pecunia valet. Tam diligenter lustrari terram permisit, ut ne unica esset hyda aut virgata terræ, ne quidem (quod dictu turpe, verum is factu turpe non existimavit) bos, aut vacca aut porcus prætermittabatur, quod non is retulerat in censum; omniaque postea scripta ad eum afferebantur. C. S. 186.*

trary, exhibits an instance of property being over-rated, for in its chartulary are entries, that in Wasingate the king's book says that the church has one virgate, but it has only the half of one; and in Wilminte, the king's book says that the church has six virgates, but it has only five^a.

The inquiry was not confined to the existing state of the country, and the value of the lands, demesnes, and stock upon them, when the survey was made, but extended to their state and value in the time of king Edward the con-

nostra de utroque rotulo prædicto, vulgariter ab Anglicis cognominato Domesday, excepta multo studio, ac non parvis sumptibus, statui meis posteris, saltem breviter annotare, plurima abbrevians, ac nonnulla latius declarans ad meliorem meorum successorum notitiam. Quod si quis posterorum de verbo ad verbum, prout diffusi in dictis rotulis originalibus tenementa nostra conscribuntur, agnoscere maluerit, dictos rotulos petat et diligenter exquirat, et hanc brevem elucubrationunculam, spero, quod mirabitur, et quod hunc laborem nostrum intimo animo collaudabit, cum tam sollicité, tamque succincté de tam confusa massa tot abdita et tam dispersa collegerim, et simul condiderim in hanc formam, imprimis &c. Ingulph. 516.

^a *In Wasingate diē lib' regis quod ecclā h̄t unā virgatā s̄; n̄ h̄t n̄ dimid'.—In Wilminte diē lib' regis quod ecclā h̄t sex virgatas s̄; n̄ h̄t n̄ q̄nq. MS. Cott. Domitian. A. ii. p. 13. b. The corresponding entries in Domesday may be found, p. 17. b.*

fessor. The name of Harold is generally mentioned with the title only of *comes*, but he is sometimes alluded to as an usurper, and in one place as having reigned^a. It was the policy of William to prevent the English from looking upon Harold as having been their king, and turn their thoughts to the last legitimate monarch, to whose bounty he wished to have it believed he was indebted for his crown. Edward the confessor, therefore, is always treated with respect, and in two instances he is termed *gloriosus rex Edwardus*^b.

During the Saxon dynasties every military establishment was regulated, and the king's geld collected, by the number of hydes in each vill or district; and in the confusion occasioned by the Norman invasion, it became necessary to resort to extraordinary measures in order to ascertain and quiet titles, and secure the rights, and strengthen the power of the crown. For this purpose the commissioners, who took the inquiries from which Domesday was compiled, held, in some sort, a court of justice,—deciding

^a General Introduction to Domesday, xcviij.

^b Ibid.

many litigated questions, and reserving for future consideration the most difficult ones. Through the medium of this immense work the king became well acquainted with the existing military strength of the country, and about this time, probably, made material alterations in the tenure of lands to improve it^a. He was also enabled to lay a tax of six shillings *per* hyde upon the lands^b

^a In 1085—*omnes prædia tenentes, quotquot essent notæ melioris per totam Angliam, hujus viri servi fuerunt, omnesque se illi subdidere, ejusque facti sunt vasalli, ac ei fidelitatis juramenta præstiterunt, se contra alios quoscunque illi fidos futuros.* C. S. 187.

^b This tax was levied, according to the Saxon Chronicle, before the survey was completed, in 1083; but other authors are not agreed whether it was levied before, or soon after that time. C. S. 185. Henry the second made a similar survey in Normandy, and by that means almost doubled his revenue as duke of it. Danigeld was imposed in the reign of king Æthelred, in order to raise money to purchase peace with the Danes. It was two shillings *per* hyde, and levied by succeeding kings, after the original cause for laying it had ceased. It is said to have been remitted by Edward the confessor, but it appears, from the 11th law of Edward the confessor, Wilk. 198, that Danigeld was paid at the rate of twelve pence *per* hyde, and from Domesday, that geld, calculated upon the number of hydes, was paid in the reign of Edward, and also in that of William the conqueror. At one time William Rufus levied it at the

that could best endure it, and excuse those which had been wasted, and were not yet restored to cultivation.

The next most authentic source of information is the Anglo-Saxon laws, which have been collected together into one volume, and translated into Latin, by bishop Wilkins. The earliest are those of Æthelbirth king of Kent, who began to reign about the year 561, and was the first of our monarchs converted to the christian faith, as well as the first of our legislators who reduced any laws into writing. Hlothaire and Eadric, who governed Kent jointly, also promulgated some written laws, and so did Wihtred. The most ancient laws of the West Saxons which have been preserved, are those of Ina, who ascended the throne about the year 688. We have no other codes made for separate kingdoms of the Saxon heptarchy^a.

After all the kingdoms were reduced into one, rate of four shillings a hyde. Wilk. 199. Danigeld is mentioned as one of the *jura regalia*, *Ll. H.* 1. c. 10. Wilk. 242. and as being twelve pence *per* hyde, in c. 15. Wilk. 245.

^a Lord Coke says, Sigebert, king of the East Saxons in the year 635, wrote a book of the laws of England, calling it *Legum Instituta*. 3. *Rep. Proem.* xi.

no monarch appears in the character of a legislator till the great Ælfred, who began his reign in the year 872. When his laws were promulgated is not precisely known, but he declared at the beginning of them, that he had collected what he thought most valuable from laws made before by Ina his relation, Offa king of the Mercians, and Æthelbirth, the first Englishman who was baptized^a. The laws of Eadward, the successor of Ælfred, begin with a command to all his gerefas, that they should judge justly to the best of their powers, and according to the Dombec^b. It is also referred to in the 8th law^c, and is quoted in the 5th law of Æthelstan^d, and the 3d of Eadgar^e. Whether the Dombec thus distinguished and referred to, was the code collected and arranged by Ælfred, is no where expressly mentioned, but it probably was so, though we know from Bede that the laws of Ethelbirth had been written, carried into effect, and treated with great respect^f.

^a Wilk. 28.^b Ibid. 48.^c Ibid. 50.^d Ibid. 57.^e Ibid. 77.^f *Qui inter cætera bona, quæ genti suæ consulendo confe-*

The next most important collection was made by Cnute, whose reign commenced about 1017, and from the 3d law it may be inferred that the code of Æthelbirth was still in force, for it contrasts the penalty of breaking the king's mund, by the English law, with that inflicted in the land of Kent ^a.

The laws which pass under the name of Edward the confessor were not compiled by him, but by William the conqueror, who first favoured certain laws introduced by the Danes, but this giving distaste to the English, he, in the 4th year of his reign, caused twelve commissioners to be appointed in each county, and sworn before himself to make a true report of the laws and cus-

rebat etiam decreta illi judiciorum, juxta exempla Romanorum cum consilio sapientium constituit; quæ conscripta Anglorum sermone hactenus habentur, et observantur ab ea; in quibus primitus posuit, qualiter id emendare deberet, qui aliquid rerum vel ecclesiæ, vel episcopi, vel reliquorum ordinum furto auferret; volens scilicet tuitionem eis, quos et quorum doctrinam susceperat, præstare. Bed. Hist. Eccl. lib. 2. c. 5.

^a *Compensatio rerum pro regis pace, hoc est, quinque libris secundum Anglorum leges (on Engla lage) et in terra Cantii (on Kent lande) pro violatione paces (mundbryce) v libris regi, et tribus archiepiscopo. Wilk. 127.*

toms prevailing there. From their reports the Norman scribes, Thomas archbishop of Canterbury, and Maurice bishop of London, drew up the laws, inserting many passages unauthorized by those reports. In the laws so drawn up it is expressly declared, that they were not made by Edward, but bore his name only, because after they had been forgotten and disregarded for 68 years, i. e. from the time of king Eadgar till his accession, he brought them again into use, and commanded them to be obeyed^a. William acquired much popularity by this measure, and these laws, though often trespassed upon or disregarded, with such alterations and amendments as this king thought fit to make, regulated the proceedings of the courts of justice.

Henry the first sought popularity by confirming the laws of Edward the confessor, and enacted some well calculated for the purpose of conciliation ; after pardoning all murders which had been committed since his coronation, he declared that those committed in future should be punished according to the law of king Edward, and after-

^a Wilk. 197. 207.

wards in general terms restored that law, with such emendations as his father, with the advice of his barons, had made ^a.

The laws of Henry the first, having been professedly made to restore and confirm those of Edward the confessor, may be quoted as declaratory of the ancient laws which existed before the conquest. They must, however, be resorted to with caution, but so far as the ranks of the people are concerned, there is little danger of being led into material error by consulting them. In the following work, therefore, I have referred both to them and the codes of William the conqueror without scruple, but in the subsequent part of the reign of Henry the first, and in the reigns of his successors, so many alterations were made in the general system, and so many political changes took place, that the laws lost their Anglo-Saxon character, and I have not thought myself justified in referring to them for information or illustration.

The laws of the Anglo-Saxons were, in fact, composed of several different codes. The word

^a Wilk. 234.

“ laga ” did not signify merely a law, but, in a more enlarged sense, the system by which any person was governed, or regulated his conduct ; thus, a man who had been injured, was said to abandon his mæglage or law of relationship, that is, his right to take private revenge, when he resorted to the regular laws^a. It might also be applied to a code of laws made or enforced in the reign of any king, and in this sense, in the laws of William the conqueror, allusion is made to the laga of king Edward^b ; and when Edgar gave to Oswald bishop of Worcester, and his successor, certain lands which he formed into a hundred, he gave it the name of Oswaldeslawe, i. e. the hundred in which the law of Oswald was administered^c. It was also used for the

^a ——— *nam ab ita lege cognatorum (of his mæglage), cum ad regularium legis accedit. Lib. Const. Wilk. 115.*

^b *Ante, p. xxiv.*

^c *Idem rex fecit de tribus centuriatibus, scilicet Wlverdeslawe, et Wiburnetro qui erant episcopi et de Chutbereslawe, qui erat prioris et conventus, unum centuriatum, id est hundredum. Deditque beato Oswaldo et ejus successoribus eandem per omnia libertatem in eodem hundredo perpetuo possidendam, quam ipse rex habuit in suis hundredis, et vocatur Oswaldeslawe. Priori quoque et conventui concessit in*

general system of jurisprudence by which any particular district or people was governed. In this sense it must be understood in the words Hundred laghe, which occur in Cnute's forest laws^a, and in Cantwara lage, which are opposed to Suthengla lage and Northengla lage in the *Liber Constitutionum* of Ethelred^b. We have the law of Wessex (*Legem Wessæ*) mentioned in the code of Henry the first^c.

The words Engla lage, Myrcena lage, and Danelege, i. e. English law, Mercian law, and Danish law, were descriptive of the people over whom each system respectively prevailed, and these codes were so interwoven into the general mass of the law of the kingdom, and yet so carefully kept separate, that I shall make no apology

codem hundredo eandem libertatem quantum ad tertiam partem pertinet. 1. Mon. 120.

^a 9. *Sint omnes tam primarii, quam mediocres et minuti, immunes, liberi, et quieti ab omnibus provincialibus summotionibus et popularibus placitis, quæ hundred laghe Angli dicunt, &c.* Spelm. Gloss. *Foresta.* see post, p. 130.

^b Wilk. 110. 111. Judges of Kent are noticed in the laws of Hlothaire and Eadric. Wilk. 8. 9.

^c Wilk. 264.

for entering into their history, and tracing their origin at some length.

The Danes or Northmen, including in that appellation Swedes and Norwegians, after making several predatory expeditions, landed a considerable force on this island in the reign of Ethelwulph, about 837, and conquered Northumberland in 867. The talents of his son, the great Ælfred, were exerted in vain to expel them, and after they had possessed themselves of Northumberland, Mercia, and East Anglia^a, he made a treaty with their king Guthrun, about 879, dividing England between them. The boundaries of their respective dominions, as specified in the treaty, were the river Thames, up to where the river Lea fell into it, then along the Lea to its head, thence straight through Bedford to the river Ouse, and along that river to the Watling-street^b. The Watling-street was one of the four

^a *In regno orientalium Saxonum, quod Saxonice East Engle dicitur. Asser. de Gestis. 15.*

^b *Ærest ymb ure landgemera upon Temese and thonne upon Ligan and andlang Ligan oth hire æwylm, thonne on gerihte to Bedanforda, thon upon Usan oth Wætlingastræt. Wilk. 47.*

great military roads made by the Romans, and crossed the kingdom from Dover to Chester; it was met by the Ouse at Stony Stratford, and after that junction formed the line of demarcation through the counties of Buckingham and Northampton, until, as we may presume, it entered Warwickshire, which, with other counties in Mercia, were given up to Ælfred. The city of London being situated on the confines of Essex and Middlesex, belonged in truth to Essex^a. A second treaty was made between the same kings, chiefly to regulate the fines imposed as punishments for various offences upon their respective subjects^b. Guthrun, soon after he had made the treaty, leaving Cirencester, marched to the East Saxons, whose country he divided among his followers, and began to inhabit^c. He made it the

^a *Londoniam civitatem, quæ est sita in aquilonari ripa Tamesis fluminis, in confinio Eastseaxum et Middleseaxum, sed tamen ad Eastseaxum illa civitas cum veritate pertinet. Asser. de Gestis. 5.* In the year 912 it was seized upon by king Eadward. C. S. 103.

^b Wilk. 51. It is entitled *Fædus Eadwardi et Guthruni regum*, which must be a mistake, for Guthrun died before Ælfred.

^c 880. The Pagan army, leaving Cirencester, went to the

seat of his government, and died in the year 890^a. Upon his death, Ælfred assumed the sovereignty of his dominions, and the Danes rebelled, and were assisted by repeated invasions of their countrymen, but at last he triumphed over all opposition. The reign of his son Eadward was disturbed by fresh incursions, but pursuing the wise policy of his father, he incorporated the kingdom of Mercia with his other possessions, and strengthened his power by the complete subjugation of East Anglia. His successor, Æthelstan, conquered Northumberland, and reigned the undisputed monarch of all England. The Northumbrians, under Anlaff, rebelled against Eadmund, and compelled him to cede that part of England which lay to the north of the Watling-street^b; in other words, to conclude a treaty not unlike that which had been made by Ælfred, and with a similar condition annexed, that the survivor should be

East Saxons, *ipsamque regionem dividens, cæpit inhabitare.*
Asser. de Gestis. 35.

^a *Flor. Wig.* 328.

^b *Hoveden.* 242. *Terminus utriusque regni erat Watlingastrete Eadmundus ad Australem plagam, Onlaf ad Aquilonalem regnum tenuerunt.*

acknowledged as sovereign of the whole^a. Fortunately Anlaff died within the year, and Eadmund not only seized upon Northumberland, but removed the Danes, who had been permitted ever since the reign of Ælfred to possess the five boroughs of Derby, Leicester, Nottingham, Stamford, and Lincoln^b, and subdued all Mercia. In the succeeding reign of Edred, the Northumbrians revolted, and chose Eric for their king, but they were defeated in a battle, their leader killed, and their country, about the year 946, annexed to England. The Danes did not again disturb the peace of this island till the year 980, early in the reign of Ethelred, a weak and vicious prince, who resisted their attacks in vain, and then became their tributary. Svein, who commanded the Danes, was invited to assume the sovereign power; Uhtred, earl of Northumberland, and all the people of his district, and Lincolnshire, with the five boroughs, and the army on the north side of Watling-street^c, setting the example, and being the first to submit to his

^a *Matt. Westm.* 365.

^b *Hen. Hunt.* 355.

^c *Chron. Sax.* 143. A. D. 1013.

authority. Svein dying soon after, afforded Ethelred an opportunity for resuming the regal dignity. Edmund Ironside succeeded him, but met with a powerful competitor in Cnute, the son of Svein, and after various conflicts they agreed to divide England between them, Cnute taking the north, that is, probably, the north of the Watling-street, according to the stipulations made in former treaties, and Edmund the south^a. The death of the latter within a few months afterwards, left Cnute sole sovereign of the whole kingdom. His son Harold succeeded him, but his family became extinct upon the death of his second son Hardicnute, and the Saxon line was restored in Edward the confessor.

By the beforementioned treaty made between Ælfred and Guthrun, England was divided into two parts, the northern occupied by the Danes, the southern by the Saxons; and both parties retained their ancient animosities and

^a *Flor. Wig.* 389. The Saxon Chronicle does not mention the division of the kingdom, but only that a treaty was made, and an agreement to pay tribute to the Danes. C. S. 150.

prejudices against each other till a period of time not very remote from the Norman conquest. Among the Anglo-Saxons, there naturally existed a strong predilection for their ancient usages and laws, and the Anglo-Danes, in order to conciliate the affection of their countrymen, and induce them to furnish fresh supplies of warriors and settlers, established in their newly acquired possessions institutions and regulations borrowed from their parent country. Thus altered, the laws of that part of England which belonged to the Danes, acquired a distinct appellation, and were called the Danelage.

The superiority of Wessex over all the other kingdoms of the heptarchy^a, and the final establishment of its power over the whole of England, in the person of Edward the confessor, occasioned its laws to be treated with particular respect, and in those of Henry the first it is

^a When Æthelwulph was compelled to divide his kingdom with his son Æthelbald, the former took the eastern, the latter the western part, and *Asser* (*de Gest.* 9. and *Asser. Ann.* 3 Gale 156.) remarks, *ubi enim pater justo judicio regnum debuerat illic iniquus et pertinax filius regnabat: nam occidentalis pars Saxoniae semper orientali principalior est.*

styled the head of the kingdom and the laws, and to it reference was made in all cases of difficulty^a. It is probable that the laws of the different kingdoms of the heptarchy were not even partially collected into one code until the reign of Ælfred, and the preface to his code shews that it was his intention to collect and preserve laws which had not been before reduced into one connected system. It is observable, that in his laws Ælfred takes no notice either of the Mercian or Danish laws, and as it cannot be supposed that this code could be compiled in the wretched state to which he was reduced in the early part of his reign, we must conclude that it was made after his treaty with Guthrun, and meant only for those parts of England which were left under his government. The contents of the Dombec, referred to in the laws of king Edward his successor, might be afterwards known under the appellation of the Westsaxenelage, or

^a 70. *Consuetudo Westsæx. In Westsexa, quæ caput regni est et legum twyhindi, &c. Ll. Hen. 1. s. 70. Wilk. 265.*

— *in Westsaxa, quæ caput regni est et legum, ad quam recurrendum est in omni dissidentia contingentium. Ll. Hen. 1. s. 87. Wilk. 276.*

Ænglalage. That the laws of the Danes were acknowledged in the portion of England allotted to Guthrun, is manifest from the second treaty, in which it was arranged, that a master compelling his servants to work on a feast-day, should pay a lahslite in the Danelage, and a wite among the English. In the laws of Edward we find the division of the kingdom, made by Ælfred, referred to as being then subsisting, for if any man received a fugitive into his family, he was liable to be punished, whether it was where the laws of Edward were passed, or in the east or north, as provided in the written treaty of peace. The place where the laws were made was Exeter, in Wessex, and we presume the east meant East Anglia, and the north, Northumberland; in other words, the punishment was to be regulated according to the Westsaxenelage, or the Danelage, which was acknowledged in the two latter districts^a.

In the laws of Æthelstan, who had made an entire conquest of the Danes, no notice whatever

^a *Sive sit in hac (here) sive sit in Orientali, sive sit in Boreali parte, compenset sicuti pacis scripta dicunt.* Wilk. 50; see also p. 49.

is taken of them or their laws, but the English law, or Engla lage^a, and Mercian law, or Myrcna lage^b, are mentioned. That the Myrcna lage is not mentioned in the laws of Ælfred may be accounted for upon the supposition, that when Ælfred legislated he was in possession of only the western part of Mercia, and the eastern was subjected to the Danes. In this situation he discontinued the title of king, and governed it by earl Ethelred, his brother-in-law, as a viceroy. This new code of laws, therefore, probably, was not enforced in his provinces of Mercia, but they continued to be governed by their ancient usages. True policy dictated to Æthelstan that his best security against foreign enemies was to bring his Mercian subjects into closer connection with him, and this could in no way be done so effectually as by publicly acknowledging and reviving their ancient laws and usages; the Myrcna lage is therefore mentioned in his laws. No material alteration appears to have been afterwards made till the reign of Edgar, who, having been assisted by the Danish settlers,

^a Wilk. 64.

^b Wilk. 64, 71, 72.

acknowledged his obligations when he ascended the throne, and ordained that such laws concerning temporal matters should be observed among the Danes, as were according to the best form which they might choose for themselves, but among the English were to be observed such laws as he and his wites might add to the ancient laws. And he gave permission for the Danes to enact not only laws, but promised that, for their fidelity to him, they should enjoy them as long as he lived^a. Whether the Danes took advantage of this permission we are not told in history, but the probability is that they did, and that the code of laws made at this time was respected by the successors of Egbert, and established in the whole district of the Danes. The Danelage, or law of the Danes, is alluded to in the laws of Æthelred, made after the reign of Egbert, as well as in those of Cnute.

An instance occurs of a king legislating for one part of his dominions only, for Æthelred, at Woodstock in Myrcena land, made some laws after the English law, which we may presume were intended for the regulation only of his

^a Wilk. 80, 81.

English subjects ^a. The *Liber Constitutionum*, made in the reign of the same king, alludes to the law among the English, the Kentish law, the law of the South English, and the law of the North English; and it is observable, that the law of the South English, in one place, seems to be used as synonymous with the English law in general, whence it may be inferred that the law of Wessex was meant by that description ^b. In the second *Liber Constitutionum* the English law is mentioned again ^c, while a distinct set of laws, for preservation of the peace, was evidently intended for the Danes alone, for, besides other reasons, wapentakes, which existed only among them, are mentioned, instead of hundreds, and the penalties are calculated in ors, which were their current money ^d. In a decree of a council held

^a Æt Wudestoce on Myrcena land, æfter Ængla lage. Wilk. 102. "Æfter Ængla lage" Wilkins translates "*secundum Angliæ leges*;" but bishop Nicholson renders the words into "*quæ postea ditio Anglorum*." 1 Hist. Lib. 37. I have followed the former.

^b Mid Ænglum—Cantwara lage—Suthengla lage—on Ængla lage—Northengla lage. Wilk. 110, 111.

^c Wilk. 113.

^d Wilk. 117.

at Ænham, in the reign of Æthelbert, to plot the death of the king was made a capital crime, but if the person charged would clear himself, he might do it, in the Engla lage, by the most solemn oath, or the triple ordeal, and in the Danelage by that which their law required^a. In the laws of Cnute, Engla lage is in one place contrasted with a law made in Kent^b, and in another it is mentioned as differing not only from a law in Kent, but from the Danelage also^c. This is the latest reference to the law of Kent, as distinct from the Engla lage, which I have met with.

The laws of Cnute seem to have been popular among the Danish settlers in England, for in 1065, when Harold had pacified the Northumbrians by promising that Morcar should be their

^a *Vel per triplex ordalium in lege Anglorum, et in lege Danorum, per illud quod eorum lex est.* Wilk. 123.

^b Ib. 127, on Kent lande.

^c C. 59. *Si quis domum irruptionem (hamsocne), fecerit, compenset quinque libris regi in Englalaga (on Englalage), et in comitatis Cantii (on Kent) juxta immunitatem quinque regi et tribus archiepiscopo, et in Danelaga (on Danelage), prouti antea obtinuit, et si quis ipsum ibi occiderit, jaceat inultus.* Wilk. 142.

earl, he also restored to them those laws^a. In the 69th, which regulated the payment of heriots, those of king's thanes were very different in Wessex, and among the Danes, and those of the lesser thanes in Wessex differed from those in Mercia, East Anglia, and among the Danes^b. It must be remarked that, in the corresponding law of Henry the first, respecting reliefs, East Anglia is not mentioned^c, which may raise a suspicion that, when Cnute reigned, East Anglia had only partially adopted the regulations of the Danelage, but that before the time of Henry the first it had

^a *Et ille restituit ibi Canuti leges, et Boreales fecerunt magnum damnum circa Hamtonam dum ille proficisceretur cum eorum legatione, tum quod occiderunt homines, et combusserunt domos et annonam; et raptarunt omne pecus quod poterant ad venire nempe multa millia, et multos centenos hominum ceperunt; et duxerunt septentrionem versus, secum adeo ut ista sciræ et cæteræ sciræ quæ ipsam prope sunt, erant multos annos deteriores.* Chron. Sax. Fragm. in the App. to Lye's Sax. Dict. I have copied the passage at length, because it affords confirmation of the assertion at post, p. 367, respecting the continuance of the practice of carrying off prisoners of war to make them slaves, or compel them to ransom themselves.

^b Wilk. 144, post, p. 87. ^c Wilk. 244; see post, p. 90.

entirely submitted to them, or adopted those of the Englalage.

Spelman, in his Treatise on Feuds, asserts that Edward the confessor abolished the names of Englalage, Myrcenalage, and Danelage, and introduced one general system, to which he gave the appellation of the Common Law of England^a. But this assertion seems to have been hazarded without sufficient consideration, for it is not only doubtful whether Edward ever promulgated any code at all, but, upon a perusal of those laws which bear his name, though collected after the conquest^b, those made by William the conqueror^c, and those of Henry the first^d, it will be found that in each reference is occasionally

^a “For, abolishing the three particular names before mentioned, he now call’d it the Common Law of England, for that no part of the kingdom should henceforth be govern’d by any particular law, but all alike by a *common law*.” Spelm. Post. Works, 49.

^b See *Ll. Ed. Con.* c. 12, 19, 31, 33, 34, 35. Wilk. 199, 201, 203, 204. And *Lex Noricorum*. Wilk. 207.

^c See *Ll. Gul. Con.* c. 1, 3, 4, 8, 17, 25, and 41. Wilk. 219, &c.

^d See *Ll. Hen. 1.* c. 14, 29, 34, 35, 53, 66, and 70. Wilk. 245, &c.

made to every one of the three codes supposed to have been abolished, as being still in force, and particular parts are quoted and recognized.

The 6th law of Henry the first expressly states, that the kingdom of England was, when the law was made, divided into Wessex, the Mercians, and the province of the Danes; and that, in like manner, the law of England had three divisions, the law of West Saxony, the Mercian, and the Danish^a. “The course and frame of justice” was, however, nearly the same in all; they had one common origin, were regulated by the same general principles, and differed not so much in the description of offences as in the punishment of them^b. It is unnecessary to pursue the history

^a *Regnum Angliæ trifariam dividitur in regno Britannia, in Westsexam, et Mircenos, et Danorum provinciam.—Legis etiam Angliæ trina est partitio ad superiorem modum. Alia enim Westsaxiæ, alia Mircena, alia Denelaga est.* Wilk. 239.

9. *Regnum enim Angliæ tripartitum est in Westsaxone, et in Mircenos, et Dacorum provinciam. Leges etiam Angliæ trina est partitio.* Wilk. 242.

^b “Yet held they all an uniformity in substance, differing rather in their *canes*, that is, in the quantity of fines and amerciaments, than in the course and frame of justice.” Spelm. Post. Works, 49. The ordeals were,

of the common law to a later period ; indeed, it is probable that the laws of Henry the first had a considerable effect in superseding the partial codes, and introducing one general system, by which every part of the kingdom might be governed, though it was left to his successors, particularly Henry the second, to perfect the scheme.

As the Westsaxenelege, Danelage, and Myrcnalage, were each established only within certain local districts, highly respectable authors ^a have considered these appellations to be descriptive of the local districts themselves ; but most of the ancient^b,

however, different in the two laws, Wilk. 123 ; and Spelman's assertion may be in other respects too general. See *Ll. Cnut.* 12, 13, 14. *Wilk.* 135.

^a *Nich. Eng. Hist. Lib.*

^b *Subactor Angliæ rex Willielmus.——Decrevit subjectum sibi populum juri scripto, legibusque subicere. Præpositis igitur legibus Anglicanis secundum tripartitam eorum distinctionem, hoc est, Merchenlage, Denelage, Westsexenlage, quasdam reprobavit : quasdam autem approbans, transmarinas Neustriæ leges, quæ ad regni pacem tuendam efficacissimæ videbantur, adjecit. Dialogus fiscalis, lib. 1. Spelm. Gloss. Lex Anglorum.*

Ex tribus his legibus S. Edwardus tertius unam legem

as well as modern writers, understand them in the signification I have done, as the names of the laws, and not the districts in which they prevailed. But it is immaterial to enter into a serious discussion of the subject, for, if certain laws are confined to a specific district, it is the same thing whether a person is described as living under the laws or upon the soil of the district.

Upon reference to the map it will be seen, that according to the boundaries marked out by Ælfred, the Westsaxenelage governed those counties which composed the kingdom of Wessex, viz. Berks, Hants, Wilts, Dorset, Somerset, Devon, and part of Cornwall, with the addition of Sussex, Surrey, Kent, and Middlesex^a. Within

communem edidit, quæ leges Edwardi usque hodie vocantur. Ranulph. Cestriens. lib. 1. c. 50.

Nemo enim stultus aut improbus debet esse iudex, sed optimates quique secundum modum suum, qui non personam, sed opera dijudicent per legem provinciæ. Regnum enim Angliæ tripartitum est in West Saxones, et in Mircenos, et Dacorum provinciam. Legis etiam Angliæ est partitio, et ad eandem distantiam supersunt regis placita curiæ, quæ usus et consuetudines suas una semper immobilitate conservat ubique. Ll. Hen. 1. Wilk. 242.

^a See Diceto, who places Middlesex within the Dane-

the Myrcnalage was only part of the kingdom of Mercia, viz. the counties of Gloucester, Worcester, Hereford, Warwick, Oxford, Stafford, Salop, and Chester, with such parts as lay to the south of the Watling-street in Northamptonshire, Buckinghamshire, Bedfordshire, and Hertfordshire. In the Danelage were Northumberland, and the counties to the north of the Humber and Mersey ; Norfolk, Suffolk, Cambridgeshire, and Huntingdonshire, which had composed the kingdom of East Anglia ; the county of Essex, with part of Hertfordshire ; and the eastern part of the kingdom of Mercia, viz. Rutland and the shires of Lincoln, Leicester, Derby, and Nottingham, and so much of the counties of Northampton, Buckingham, Bedford, and Hertford, as lay to the north of the Watling-street.

From a passage in the laws bearing the name of Edward the confessor, it should seem that, before the time of their compilation, some alteration had been made in the distribution of the counties over which each of these three codes had originally

lage, 3 Gale, 560 ; and so does Selden, in his *Jani Anglorum*, 3 *Seld. Op.* vol. 2. 997. See also, *Higd. Polych.* 3 Gale, 201.

dominated, for we are told that certain counties which had been within the Danelage, namely, Yorkshire, Lincolnshire, Nottinghamshire, Leicestershire, and Northamptonshire, as far as Watling-street, and eight miles beyond Watling-street, were then under the law of the English^a. The county of Derby is not mentioned, but it is not probable that it was separated from the other adjoining Mercian provinces, and left alone under the Danish law; we may rather presume that it was included in Nottinghamshire, or some other of the enumerated counties. The Danelage, of course, must have been afterwards confined to the counties lying to the northward of the rivers Humber and Mersey, excepting Yorkshire and those which had composed the kingdom of East Anglia.

Dr. Hody has remarked, that the Saxon Chronicle published by bishop Gibson, appears

^a *De hundredis et wapentachiis.*—*Ewerwickshire, Nicolshyre, Notinghamshyre, Leycestershire, Northamptonshire usque ad Watling-strete, et octo miliaria ultra Watling-strete, sub lege Anglorum sunt. Et quod Angli vocant hundredum, supradicti comitatus vocant wapentachium.* Wilk. 203. Rutland, at the time of the conquest, made part of Northamptonshire.

to have been written by the monks of the abbey of Croyland^a. I have, in general, followed its chronology, and referred to it occasionally for the history of the times to which it relates.

Dr. Hody has also made some strong observations upon most of the charters and grants in the Anglo-Saxon language purporting to be of ancient date. He asserts that all written charters dated previous to the year 700 are undoubtedly forged, for Wihtred king of Kent, who began to reign in that year, granted the first written charter of lands and privileges, which he ordered to be copied and preserved in the church of Canterbury, to serve by way of precedent in future^b. He also rejects all Latin charters made between the year 700 and the reign of Edgar, which began about the year 958, and all dated before the Norman conquest which have in them clauses of exemption from episcopal jurisdiction; indeed, he considers all purporting to be made before the conquest "to be very doubtful, and consequently of very little authority." He,

^a Hody, of Convocations. 25.

^b Spelman, of Feuds. 8.

however, condescends to make use of them, for which he has the following apology, which I beg leave to adopt in justification of my having followed his example. “ However, because they
 “ are all, or almost all, pretended to be made in
 “ some synod or great council, and Sir Henry
 “ Spelman has thought fit to produce as many
 “ as came to his hands, and by other antiquaries
 “ they are wont to be quoted as authorities, and
 “ they shew, at least, the opinions of that age in
 “ which they were forged, which, for the most
 “ part, is just after the conquest ; for these rea-
 “ sons I intend to take notice of most of those
 “ that shall come in my way,—lest this history
 “ should be thought imperfect without ’em ^a. ”

The great æra for the forgery of charters was soon after the conquest, particularly when Domesday-book was compiling ^b. Many charters were exhibited to the commissioners ^c. We may presume

^a Hody, of Convocations. 20. See also, *Hickes. Thes. Pref.* xxviii.

^b General Introd. to Domesday, xiii.

^c *De hoc man̄ ostend’ Osbs̄ ep̄s cartas suas q̄ testant̄, &c.* D. 101. b. *H̄ manerium dedit Aluricus fili Wisgari Scō Johanni t. r. e. &c. Facta etiam carta æccliam et omnem*

that all those of early date, as well as most of the recent ones, were written in Saxon. In the leiger-books and chartularies of monasteries, many of which have been preserved to the present time, copies of these were made by the monks, with translations into Latin annexed, but very frequently the translations only were entered in the books; sometimes the substance of the grants was alone recorded, and in that case it is obvious that the credit of the entries depended entirely upon the fidelity and ability of the translators and transcribers. In the history of the abbey of Ramsey several charters are stated to have been translated from the Saxon into Latin, probably about king Stephen's time^a; and a few years before he began to reign, the church of St. Augustine at Canterbury had been charged with the production of many suspected and altered charters^b.

locum Levestano abbī ad custodiendum comisit, &c. 2 D. 389. b.

^a *Hist. Rams.* 3 Gale. 407. *In hoc scripto quod de Anglico Latinum fecerim, &c.* See a similar entry at p. 417.

^b Gervase, in his Chronicle, under 1181, writes *Monachos Cænobii Augustinensis produxisse multas chartas, suspectas et rasas.* 1 *Spelm. Conc.* 126.

The legal punishments of the Anglo-Saxons and Anglo-Danes consisted chiefly of pecuniary mulcts, and even when they were of a personal nature they might generally be commuted into the payment of money. Some knowledge, therefore, of the nature, value, and denomination of the money in use among them, becomes absolutely necessary, in order to understand the laws to which it will be found reference is continually made in the following pages.

Upon this subject there has been great difference of opinion, but Dr. Henry has gone pretty deeply into the consideration of it^a; and I shall content myself, without minutely examining its contents, with borrowing from him the following table, and adding a very few observations.

^a History of England, vol. iv. pp. 245, 274.

SAXON MONEY.

Denomination.	Troy Grains.	Pennies in each.	Present Value.		
			£.	s.	d.
The Pound	5,400.	240.	2.	16.	3.
The Mark	3,600.	160.	1.	17.	9.
* The Mancus of gold	56.	30.	0.	7.	0 $\frac{1}{4}$.
. . . D° . . . of silver	675.	30.	0.	7.	0 $\frac{1}{4}$.
The Or	450.	20.	0.	4.	8 $\frac{1}{4}$.
* The greater Shilling	112 $\frac{1}{2}$.	5.	0.	1.	2.
* The smaller ^a . . D° .	90.	4.	0.	0.	11 $\frac{1}{4}$.
* The Thrimsa	67 $\frac{1}{2}$.	3.	0.	0.	8 $\frac{1}{2}$.
* The Penny	22 $\frac{1}{2}$.	. . .	0.	0.	2 $\frac{3}{4}$.
* The Sceatta ^b	5 $\frac{1}{2}$.	0 $\frac{1}{4}$.	0.	0.	0 $\frac{3}{4}$.
* The Halfling	11.	0 $\frac{1}{2}$.	0.	0.	0 $\frac{1}{4}$ & $\frac{1}{2}$.
* The Feorthling	5 $\frac{1}{2}$.	0 $\frac{1}{4}$.	0.	0.	0 $\frac{3}{4}$.
* The Styca ; brass		. . .	0.	0.	0 $\frac{1}{4}$ & $\frac{1}{2}$.

Those marked * are conjectured by Dr. Henry to have been real coins.

^a These smaller shillings Dr. Henry supposes to have been in use in Æthelstan's reign, and not to have been current long, as, in Cnute's time, the greater ones were used again. In Domesday-book the shilling is reckoned at twelve pence.

^b The value given here is the original one of the sceatta, but it seems to have been soon lost as a separate coin, and the name used for a penny ; perhaps the feorthling usurped its place.

In a pound, therefore, were eight mancs, twelve ors, forty-eight greater shillings, sixty smaller shillings, eighty thrymsas, or 240 pennies.

The mark, half-mark, and or, were introduced by the Danes, as the styca probably was also. The coined money in England was so trifling in quantity, that most of the transactions of commerce, and all buying and selling, were carried on by barter; and cattle obtained the name of *viva pecunia*, from being received as money upon most occasions, at certain regulated prices^a.

The pound mentioned in the foregoing table was, what its denomination purported it to be, an actual pound in weight. The most usual mode of reckoning among the Saxons was by pounds, shillings, and pence; but the last seems to have been the general basis of their calculations, for not only their pounds^b, but their shillings

^a *Si cum maritata uxore concumbat, si sit coloni, sexaginta solidis compenset ei ad quem pertinet, et hoc in viventi possessione pecunia componatur, et nullus homo propterea vendatur. Ll. Ælfr. 18. Wilk. 39. See Ll. Gul. Con. 10. Wilk. 221.*

^b — *et dedit ei pro illo centum duodecim mancas auri, et xxx libras denariorum. Text. Roff. 117.*

also, are mentioned to have been composed of them ^a.

These pennies are sometimes denominated white ^b, and white money ^c, whence we may infer they were of silver, and that there were others not so distinguished. The Anglo-Saxons had two modes of computation, and received money in payment, either by weight ^d or number ^e. In

^a *Modo redd' c. sol. de alb' denar̄.* D. 180.

L sol. de candid den̄. D. 179. b.

Hoc man. redd' xx lib' et x solid' denariō candidō. D. 180.

^b *LX lib' ad numerum de candidis denariis.* D. 179. 179. b.

Hoc manerium (Lid tune) sicuti est modo redd' x lib' de albis denariis. D. 179. b.

Hoc man. redd' ix lib' et x solid' denariorum candidorum. D. 180.

^c *xxx libras alborum nummorum de xx^{ti} in ora.* D. 164.

xi libras alborum nummorum de xx^{ti} in ora. D. 172. b.

xxiv libr. candidorum nummorum de xx^{ti} in ora. D. 164.

xx^{ti} libras blancas, &c. xx^{ti} sol. gersuma ad numerum.
² D. 117.

^d *xxv libras ad pond'.* D. 120.

^e *Aldeborne. Hoc man. redd' Lxx lib' ad pensum, sed ab Anglis non appreciatur nisi LX lib' ad numerum.* D. 65.

xxv libras ad numerum. D. 172.

order to ascertain the weight of any sum, there were public balances kept in the principal towns, and sometimes the purity of the metal was assayed at the exchequer by fire^a.

The currency must have undergone much depreciation about the time of the Norman conquest, for Boseham in Sussex rendered 50 pounds burnt and weighed, which were worth 65 pounds^b. Frequent allusions are made to these different modes of payment in Domesday-book. In like manner, the mancus might be composed of a certain number or weight of pence^c, as was the

^a *Et reddit per aññum vii lib' ad pond' et combustionem.*
Ex. D. 97.

Redd' xii lib' ad pondus et arsuram. D. 120.

^b *Totū man. T. R. E. et post, valuit xl lib' modo simili xl lib'. Tam reddit l lib' ad arsurā et pensū, quæ valent lxxv lib'.* D. 16.

^c Dr. Henry supposes the mancus of gold to have been a coin, and so it is stated to be in the preceding table; but it is very doubtful whether it was not always descriptive of weight, and applicable to other subjects as well as money. *Et pro hac donatione prædictus clericus dedit eidem regi centum mancusas in duabus armillis, et nota quod mancusa est pondus duorum solidorum vi denar.* MS. Will. Thorn. An. 848. Du Cange, mancusa. Where are also quoted, 400 denariorum mancusas. Matt. West. An. 857.

case with the or^a, which had varied in the number it contained, but is uniformly mentioned in Domesday-book to contain 20, whether reckoned by number^b or weight^c.

To Henry Howard, esq. of Corby Castle, in the county of Cumberland, I am happy to have this public opportunity of making my acknowledgments, for the loan of a very valuable ancient manuscript collection of the Anglo-Saxon laws, written in Latin, which has enabled me to detect several errors in the copies in general use. I have referred to it occasionally, by the name of the Howard MS.

Trecentas mancusas denariorum. Sim. Dun. To which may be added, *v mancusas denariorum persolvere. MS. Cott. Claud. C. 9. 155. b.*

^a *Per tres oras denariorum. D. 262. b. Chester.*

— *redd' huic man. II oras denar̄. D. 180. b. So XVIII oras denariorum. D. 179. b.*

XL oris argenti. D. 336. b. cited Gen. Introd. to Domesd. LIII. note³.

^b *Modo redd' Oxeneford LX lib' ad numerum de XX^{ti} in ora. D. 154.*

XXV libras de XX^{ti} in ora et albas. D. 164.

^c *VII lib' et II ora et duo den. D. 189.*

XL libras ad pondus de XX^{ti} in ora. D. 220.

It would be very ungrateful in me not to return my thanks to the trustees and officers of the British Museum, for the advantages I have derived from having had the most prompt and easy access, through the reading-room, to its very extensive collection of books, both printed and manuscript. But to Henry Ellis, esquire, the keeper of the manuscripts, who has so much benefitted the public by his researches into the Anglo-Saxon history, and the antiquities of this country, I am particularly indebted for his ready attention to my wishes upon all occasions, and his cordial assistance in the progress of my inquiries.

The passages quoted from Domesday have generally been copied with the abbreviations used in the original, but they have not always been minutely attended to, and in some instances the words are given at length. Domesday is always described, when referred to, by the single letter D, and little Domesday by 2 D. In like manner the letters C. S. are put for the *Chronicon Saxonicum*, and 1 *Mon.* or 2 *Mon.* for the first or second volume of Dugdale's *Monasticon*.

I have made use of the copy of Ingulphus, published by Savile in his *Scriptores post Bedam*, not being apprised till too late that there was any other edition of his work to be referred to. In general I have endeavoured to avoid the introduction of Latin or Saxon words into the text, but have made copious quotations from both those languages in the notes. I have relied chiefly upon Wilkins's Latin translation, not merely on account of my own ignorance of the Saxon language, but because it could not be expected to be familiar to the bulk of my readers. And for a similar reason, the Saxon quotations are printed in common Roman letters.

ERRATA.

Page 8, line 28, *for second read first*

— line 29, *dele* of the first

— last line, *for Claud. c. 9, read Claud. C. 9,*

11, last line, *for Claud. c. 9, read Claud. C. 9,*

12, line 26, *for Claud. c. 9, read Claud. C. 9,*

13, last line, *for Claud. c. 9, read Claud. C. 9,*

28, line 10, *for villains read villans*

32, line 2, *after all add of*

43, line 21, *for (ceorlise read (ceorlisc*

59, last line but two, *for Gibson read Wilkins*

70, line 14, *for places read place*

94, last line but one, *for gestibus read gestis*

98, last line but one, *for gestibus read gestis*

117, line 7, *for Poicters read Poitiers*

198, line 15, *for had read have*

200, line 21, *for wite, read white,*

258, line 14, *for and read or*

345, line 13, *for he read one of them*

And, same line, *for the devil, read devils,*

ERRATA.

Page 8, line 28, for second read first

— line 29, this is the first

— last line for Class, e.g. read Class, C. g.

12, first line for Class, e.g. read Class, C. g.

13, line 28, for Class, e.g. read Class, C. g.

14, last line for Class, e.g. read Class, C. g.

20, line 10, for William read William

20, line 2, for William read William

21, line 2, for William read William

22, last line for William read William

23, line 1, for William read William

24, last line for William read William

25, last line for William read William

26, line 7, for William read William

27, line 10, for William read William

28, line 21, for William read William

29, line 1, for William read William

30, line 1, for William read William

And, under line, for the year, read year

OF THE
RANKS OF THE PEOPLE
UNDER THE
ANGLO-SAXON GOVERNMENTS.

CHAP. I.
OF THE QUEEN, AND ROYAL FAMILY.

WHETHER among the Saxons, in their own country, the people were divided into three or four classes, does not seem to be perfectly agreed among historians. We are informed by one of them, that they had nobles, freemen, freedmen and slaves, and that the law punished with death any man who should presume to marry a wife out of a class superior to his own^a.

^a *Quatuor differentiis gens illa consistit, nobilium scilicet, et liberorum, libertorumque, atque servorum. Legibus firmatum ut nulla pars copulandis conjugiiis propriæ sortis terminos transferat; sed nobilis nobilem ducat uxorem, et liber liberam, libertus conjugatur libertæ, et servus ancillæ. Si vero quispiam horum sibi non congruentem et genere præstantiorem duxerit uxorem, cum vitæ suæ damno componat.* Einhard of the Saxons, cited 3 Seld. 14.

Another author of great respectability asserts, that there were only three classes, the *Edelingi* or nobles, *Frilingi* or freemen, and slaves^b. In England, those three ranks only were known, for freedmen, or persons emancipated from slavery, fell into the general class of freemen without enjoying all its privileges; nor were unequal marriages liable to any punishment. It may be presumed, however, that they did not frequently take place, and that the distinction between each rank was preserved with a considerable degree of jealousy.

The word “Cwen” originally signified a wife in general, but was by custom converted into a title for the wife of a king. She was also frequently called *Hlæfdige*, whence the English word lady, in latin *domina*.

The queen consort was the first subject in point of rank. This was strongly marked in the laws of Henry the first, which declared the different fines to be paid for *overscunesse*, or contempt, committed in a court of justice. If the court belonged to the king, the offender paid a fine of twenty mancs, which made fifty shillings.

^b *Saxonica gens omnis in tribus ordinibus divisis consistit. Sunt enim inter illos qui Edhilingi sunt, qui Frilingi, sunt qui Lazzi illorum lingua dicuntur, Latina vero lingua hi sunt nobiles, ingenuiles, serviles. Nithard. lib. 4.*

In West Saxony, which in another place is denominated the head of the kingdom and the law, if the court belonged to the queen, the offence was punished by a fine of equal value; if to a bishop or earl, by ten mancs; if to a thane or baron, by five mancs^c.

The queen consort was crowned as well as the king, and the coronation of both, in case the king was married, took place at the same time; but if the king was unmarried when he was crowned, and afterwards took a wife, she was honoured with a separate coronation. Such must have been the case with respect to Editha, the queen of Edward the confessor, for he ascended the throne in the year 1041, was crowned in 1042^d, and they were not married till the next year; but she must have been crowned shortly afterwards, for she is mentioned in the year 1048 as “the lady who had been consecrated to him as queen^e.”

^c *Overseunesse Regis est in causis communibus viginti mancæ que faciant L. solid. In West Saxa Reginæ viginti mancæ, Episcopi decem mancæ, Comitibus decem mancæ, Comitibus decem, Thanii vel Baronis quinque mancæ. Ll. Hen. 1, 35. Wilk. 250.*

^d C. S. 157.

^e *Hoc ubi primum fuisset factum, dimisit Rex dominam, (tha hlæfdian) quæ consecrata fuerat ipsi in reginam, (seo wæs gehalgod him to cwene) et auferri ab ea permisit,*

It was customary for the Saxon monarchs to hold their courts, with great solemnity, three times in every year, at the great festivals of Christmas, Easter, and Pentecost, when they were seated upon thrones, and wore their crowns. The queen consort, at these assemblies, wore her crown also, and was seated upon a throne near the king. It is probable that she appeared in state upon other occasions, for when an assembly of the nobles met at Winchester to adjust the complaints of the secular clergy against St. Dunstan, the king presided, having his queen seated by his side^f. It was customary, also, for the queen to sit at the same table with the king at meals. But in the kingdom of the West Saxons, there was a period of time, during which the royal consort was deprived of these honourable distinctions^g. Beorchtric had married Eadburga, daughter of Offa king of the Mercians, whose conduct was in the highest degree tyrannical and flagitious. Her beauty gave her a great influence over the king, and she exercised it for the most

quicquid haberet terrarum, et auri, et argenti, et bonorum quorumcunque, eamque commisit sorori suæ apud Hwerwillam. C. S. 164.

^f *Et Rex cum sua conjuge adest ad determinandum querelas negotii ejus. Eadmerus de vita S. Dunstani. 2 Ang. Sacra. 219.*

^g 1 *Hickes. Thes. 148.*

wicked purposes^h. Instigated by her mother, she abused the privilege of sitting near the king by accusing the nobles and clergy of fabricated crimes; some she caused to be put to death, others to be banished, and those whose ruin she could not effect she destroyed by poison. Enraged at last that she could not prevail upon the king to disgrace a young nobleman of high rankⁱ, to whom he was strongly attached, she determined to deprive the young man of life; but unfortunately, the beverage, intended for him only, was tasted by the king also, and both became her victims. To escape from the public indignation she fled to France, taking with her a great treasure in money, and applied for refuge to Charlemagne. He sent her to a nunnery, where she conducted herself so artfully that after some time she was nominated^j to be its abbess; but having been discovered in an intrigue with a man of low birth, she was expelled ignominiously, and died in abject poverty^k.

^h 3 *Hickes. Thes.* 52, note.

ⁱ This was probably Worr, an ealderman, whose death is mentioned in the Saxon Chronicle to have happened A. D. 800, in the same year with that of Beorchtric. C S. 68.

^j These occurrences are related from *Asser. Annales*, 3 Gale, 156. *Asser. vita Ælfredi*, 10, 11. *Mat. Westm.* 152.

^k *Anglia Sacra.* 196.

Beorchtric was succeeded by Egbert, both of whose queens, in deference to the wishes of the nation, were deprived of the regal name and honours, and when Athelwulph acceded to the throne, his first wife was in the same degraded situation. He afterwards went to Rome, taking his youngest son Alfred with him, and spent a year there. A few days before his return he prevailed upon the Pope to crown his son, and on his way home married Judith, daughter of Charles the bald of France. During his absence, his eldest son Athelbald, and others, had entered into a conspiracy to prevent his returning to his kingdom, for which two reasons were given, first, that he had attempted, by crowning his youngest son, to exclude his other children from the throne, and secondly, that he had manifested a contempt of the English ladies by taking a foreign wife. Moreover, the conspirators had heard that, contrary to the custom and laws of the West Saxons, he gave to his newly married wife the title of queen and permitted her to be seated by his side at the same table at meals; and not only they, but the people in general, took an oath that they would never permit a king to reign over them who treated his wife in this manner. Athelwulph, however, brought over his wife, and terminated the differences between him and his

eldest son Athelbald, by dividing his kingdom with him¹. Whether Judith was crowned does not appear, but, by the command of the king, she was restored to the ancient privilege of sitting upon a throne near him, and enjoyed it as long as she lived, without any opposition from the nobility^m. This compromise with Athelbald, probably secured a temporary compliance with the wishes of the king, but expressions used by Asser in his *Life of Alfred*, imply that in his time the West Saxons still persisted in their resolution, and would neither permit their queen to assume the ancient honours of her rank, nor the title of queen, but called her only the wife of their kingⁿ. When Ethelred succeeded his brother Edward some of the nobles were dissatisfied, not only because they feared his morals were too strict to permit him to overlook their excesses, but because his mother, though legally married, yet had not, any

¹ *Matt. Westm.* 158, 159.

^m *Juditham Karoli regis filiam, quam a patre suo acceperat, juxta se in Regali solio sine aliqua suorum Nobilium controversia et odio, usque ad obitum vitæ suæ, contra perversum illius gentis consuetudinem, sedere imperavit. Ass. Ann.* 3 Gale, 156.

ⁿ *Gens namque occidentalium Saxonum Reginam juxta regem sedere non patitur nec etiam reginam appellari, sed regis conjugem permittit.* 1 *Hickes. Thes.* 148. Asser's *Alfred*, 10, 11.

more than his father, been properly consecrated°. At what period the ceremony of crowning the queen was resumed, does not satisfactorily appear, but the particulars of the coronation of a queen of the second Ethelred, at the same time with him, have been preserved to us^p. And the wife of king Edward the confessor, we have observed before, was consecrated to be his queen.

The queen consort had her separate household and attendants; Ætheldrythe, queen of the East

° When Edward succeeded Edgar, *cum in regem consecrari deberet, nonnulli de principibus terræ contraire ne Rex fieret nisi sunt: cum quia morum illius severitatem, qua in suorum excessus acriter sævire consueverat, suspectum habeant, tum quia matrem ejus, licet legaliter nuptam, in regnum tamen non magis quam patrem ejus dum eum genuit sacratam fuisse sciebant.* Eadmerus de vita S. Dunstani. 2 Angl. Sacra. 220.

^p Qu. Whether it was his first or second queen who was crowned? The first William of Malmsbury did not know; but we are told elsewhere that she was called Alfgiva, and was the daughter of earl Agilbert. *Flor. Wigorn.* 694. The second was Emma, daughter of Richard duke of Normandy. After the ceremony of crowning the king was finished, the coronation of the queen began; her head was anointed with oil, a ring was presented to her, and the crown was placed upon her head. *MSS. Cott. Claudius, A. 3.* It seems most probable that it was his second wife who was crowned, for I find this subscription of the first to a grant to the abbey of Abingdon: *Ego Alfgiva ejusdem regis collaterana predictum dono confirmo.* *MSS. Cotton. Claud. c. 9, p. 125.*

Angles, had thanes in her household, and ealdermen^q. Four thanes of Æthelfleda, queen of the Mercians, were killed in battle^r. Mahtilde, the wife of Ælfgeard, a man of great wealth, was *cameraria* to queen Ædgith^s, and her *dapifer*, or house-steward, is mentioned in the Exeter Domesday-book^t. An ancient custom existed in the manor of Lene, in the county of Hereford, for the house-steward and other attendants of the queen, to receive from the steward of the manor ten shillings, to be divided among them, when she came within its boundaries^u. Ædgith, describing herself as the lady of Edward the con-

^q Com he mid Aetheldrythe tha cwene of East Anglum, and he was hyre thena hire huses, and hire geferscipes ofer ealdormonn.—Translated for *eratque primus ministrorum et princeps domus ejus. Bed. Hist. Eccles. lib. 4. c. 3.*

^r C. S. 106.

^s 1 Mon. 129. *Camerarius* may sometimes be translated Treasurer; and at others it means Chamberlain, or officer having the care of chambers; it might also be rendered Storekeeper, p. 187, as appears from *Text, roff. 163, 178. Quicquid percepit episcopus, tam in vestiariis quam in calciariis per manū camerarii et quicquid percepit in cereis et exeniis et consuetis per manū sacristæ.*

^t P. 146. b.

^u Lene, Herefordshire. *Terra Regis, prepositus hujus m̄ consuetud' habeb' T.R.E. ut veniente domina sua in m̄ presentaret ei XVIII. oras denar' ut eet ipsa læto animo, et dapifer et alii ministri habeb' de eo x. solid'.* D. 189, b.

fessor, addressed the notification of a grant made by her in favour of a religious house, to her brother earl Harold, and Tovi, and all *our* thanes in Somersetshire^x. Alwinus, her huntsman, is mentioned in Domesday-book^y; and so are her thanes^z, as well as those of (Matilde) the wife of William the conqueror^a. Hoveden mentions Reinelm and Godfrey, chancellors of the queen in the reign of Henry the first^b. To defray the expense of the establishment of the queen consort, she had ample revenues arising chiefly from lands settled upon her before marriage by way of jointure, and rents and services reserved out of manors and lands held by the king, or others. It seems also, from the terms in which these reservations are mentioned, that some of them, at least, belonged to her as incident to the tenure of the land charged with them, and not arising out of any special settlement or compact.

^x Eadgith, se hlavedige, gret Harold erl mine brodar, et Tovid, et ealle ure thegena on Sumerseaton freondlicke;— and gives notice that she had granted Milferton as fully as she had it herself. 1 *Hickes. Thes.* 163.

^y D. 139. b.

^z *Brictric tenuit tein Eddid' reginæ.* D. 176.

^a *In Colstevorde h̄b Taiñ reginæ IIII. car. ad geld'.—Isdem ipse h̄t ibi III. soch.* D. 371.

^b *Reinelmus Cancellarius reginæ* is mentioned, *Hoved.* 469, and *Godfridus* at p. 477.

It is highly probable that, in ancient as well as in modern times, the queen consort was considered as a feme sole in all legal proceedings. Sir Edward Coke, being called upon to prove that such was the common law before the conquest, produced a charter made by Æthelswith, wife of Burhred king of the Mercians, in the life-time of her husband, for he was an attesting witness; whereby, with the consent of her ealdermen, she gave to Cutwolph, her most faithful minister, "*aliquam telluris partem meæ propriæ potestatis.*" This instrument lord Coke found instantly, upon the question being put to him, and triumphed in its being a direct and demonstrative answer^c; but Hickes is not satisfied, and observes, that the deed itself, upon the face of it, may suggest a doubt, for the land conveyed is expressly described in the words before stated, as "*partem meæ propriæ potestatis;*" which Sir Edward Coke translates,—"*part of my peculiar power,*" and in the margin inserts, as a note upon the word power,—"*i. e. demesne.*" To show that lord Coke has misunderstood this passage, Hickes remarks, that the settlements of the Anglo-Saxons made before marriage, usually re-

^c Preface to 6 Rep. 3. A Latin translation of this will is given in MSS. Cotton. Claud. c. 9, 105.

served power to the wives to give or sell the lands settled upon them, of which he quotes a striking instance^d.

That it was usual to make similar settlements before marriage, and give wives power to sell or dispose of their lands, there is no reason to doubt; Ædive, queen of Edward the elder, gave lands *de matrimonio suo*, to the abbey of Abingdon; but the grant, probably for greater security, was made jointly by the king and her^e. Ædel-

^d Power was reserved to the intended wife of Wulfric to give or sell, as these words show:—"And fealde hire that
" lande æt Eanulfintune to gyfenne and to syllene tham
" the hire leofest wære on dæge and æfter dæge. Thær
" hire leofest wære." *Diss. Ep.* 152. I suspect both Sir E. Coke and Dr. Hickes may have mistaken the import of the words *partem meæ propriæ potestatis*, but reserving the full discussion of their signification for another place, I shall only observe here, that they may relate to such lands as the king, not as her husband, but by virtue of the royal prerogative, had given her power to dispose of as she pleased.

^e *Matrona quedam, Ælfgiva nomine, de genere regali nobillissima. Ædive, scilicet regine regis Edwardi, consanguinea villam quandam, que Luuechenora dicitur de matrimonio suo habebat, &c. MSS. Cotton. Claud. c. 9, 128. But it was given a rege Edwardo et regina Editha donatione perpetua. Ib. 129.*

The following extracts from Domesday-book illustrate the text:

In Halelai tenet Azelina de maritagio suo v hid' et una virg et dim. D. 218. Azelina is stated before to be femina

fleda, widow of Brithnoth duke of Northumberland, gave away the manor of Ratendune, described to be *de dote sua*^f. And when earl Waltheof, son of Siward duke of Northumberland, married Judith, neice of William the conqueror, he settled upon her in name of dower, all his lands lying to the south of the river Trent^g.

We may conclude that by virtue of such power, Emma, Ethelred's Queen, called by the Saxons Elfrida Imma^h, made a munificent grant to the church of St. Swithin, at Winchester. She was possessed of many manors, which her late husband king Ethelred had settled upon her as her dowry. These his successors, Cnute and Hardecnute, had confirmed to her, and granted her the power to dispose of to whatever places or persons

Radulfi Tailgeboſc; and the head under which this entry stands, is *Terra Uxoris Radulfi Taileb*.

In another place it is said, *H' trā ē de maritagio*. D. 219. Again, *hoc est de suo maritagio*. Ib.

Hanc terram clam Hugo de belcāp super Azelinā dicens eam habere injuste, nec ejus dotem unquam fuisse. D. 218.

^f 3 Gale, 494; and see p. 495.

^g *In celebratione vero matrimonii et nuptiarum, nomine dotis, contulit Comes uxori suæ omnes Terras suas a flumine de Trente in austrum protensas. Origo et Gesta Sivardi Ducis.* 3 Langebeck, 299.

^h MSS. Cotton. Claud. c. 9, 12. b. C. S. 156.

she pleasedⁱ. She had resided after her husband's death at Winchester, and was accused of having been too intimate with Alwin, bishop of that diocese. The bishops in general were not disposed to listen to the accusation; but Robert, archbishop of Canterbury, took a strong part against her, and she offering to prove her innocence by the ordeal, he insisted upon her undergoing the trial. She did so, and walked with naked feet not only unhurt, but, miraculously without knowing it, over nine red-hot ploughshares. Indebted for so signal a deliverance to the ingenuity of the priests, she did not prove ungrateful, for she distributed to them and others all the manors with which Ethelred had endowed her^k. Her innocence was so satisfactorily evinced, that it was not necessary to wait for the time appointed by law to know the result, but she was instantly acquitted of the charge; and to the church of St. Swithin, her protector, she presented, on the day of her trial, an offering of nine manors for the nine

ⁱ *Habebat enim regina illa multa maneria, quæ Ethelredus rex illi in dotem dederat, et Cnutus, et Hardecnutus reges in jus hæreditarium confirmaverant, quibuscunque vellet assignanda locis, vel conferenda personis.* 1 Mon. 35.

^k *Regina Emma donata omnibus maneriis dotis suæ, quæ illi priores Reges confirmaverant, non est oblita liberatoris sui. Deditque ipsa die S. Swithino in oblationem pro IX vomeribus, IX maneria.* 1 Mon. 36.

ploughshares. Bishop Alwin also gave nine manors to the same church ; and the king not only ratified these grants, but added three more manors, and he and the queen attempted to outvie each other in the ornaments they bestowed upon the church ; but it is mentioned that the queen, as might naturally be expected, was most lavish in her presents ¹.

Of a more equivocal nature were two grants made by Eadgith, wife of Edward the Confessor ; one of Merke, with sac and soc, “ as she had it “ in her own hands ^m ;” the other of Milferton, “ as fully as she had it ⁿ :” and one of Ethels-

¹ *Pro quo miraculo Wyntoniensi et Monachos inibi Domino servientibus XXI dantur maneriâ, ex dono regis tres, viz. Portland Wykehelewelle et Waymuthe. Ex dono regina Emmæ novem, viz. Brandesbury, &c. Ex dono episcopi novem maneria, viz. Storchham, &c. Novem vero hi vomeres in occidentali parte claustrî Wyntoniensis ecclesiæ erant humati. Thomæ Rudborne Historia Major Wintoniensis. 1 Ang. Sac. 235. In the Annales Ecclesiæ Wintoniensis, it is stated, that Elwin the bishop gave the manors he granted, de suo patrimonio, and that the king ratified both his and the queen's grants. The land the king himself gave is said to consist of two manors, Meona and Portlande, and land of five hydes, called Wrockeshale. Ib. 293.*

^m “ Eadgith seo hlavedi Eadwardes kinges lefe gret all “ that hundred at Wedmore Frendlicke,” announcing that she had given to Giso, the bishop, the land at Merke, with sac and soc, as she had it in her own hands, for king Edward's soul and her own. *Hickes. Thes.* 163.

ⁿ See note ^x, at p. 10, *ante*.

withe, the wife of Alfred, who gave fifteen *manentes*, part of the land “in her own power^o.”

Whether, however, the privilege is to be traced to the common law, or was founded on express stipulation, we do, in fact, find queens consort acting in all respects as *femes sole*, in the tenure, possession, management, and alienation of real property. Edeve, queen of Edward the confessor, not only held land^p, but held some of her husband^q, and jointly with him^r; and of the whole city of Canterbury, Edward had the sac and soc, except the lands of several persons expressly named, and among them *Eddeva regina*^s. Of course, she held not only these lands, but the sac and soc of them; and she is expressly stated to have manors^t, and to hold for manors^u; and in Northamptonshire, the manors which had been hers, are represented as paying to the crown no

^o MSS. Cotton. Claud. c. 9, 105.

^p After enumerating lands in several places, held by the king, *Has terras tenuit regina Eddid’*. *Modo*, &c. D. 219. See also D. 336, b. 337, &c.

^q *Eddeva tenuit de rege*. D. 7, b.—*De rege*. E. D. 11.

^r *In Ingeham*. Tra. III. *boū Eruin de rege et regina m̄ ibi ē 1. soch.* &c. D. 371.

^s D. 2.

^t *Hoc Man̄ tenuit Eddid’ regina*. D. 144, b. 150, 151, &c.

^u *Eddid’ regina tenuit pro. II Maner̄*. D. 22.

less than forty pounds^x. In another place, the queen, without specifying what queen, paid ten pounds and five ors, *de dono*, for hay^y. Queen Eddeve^z had *milites* and *homines* among her tenants, and some of the latter are mentioned by name^a. She had established a market at Tewkesbury, which produced a profit of eleven shillings and eight pence annually^b; and in one instance had disposed of the daughter of a vassal in mar-

^x *D. Maner Eddid' reginæ xl lib. D. 219.*

^y *De dono reginæ, et de feno x lib. et v oras. Ibid.*

^z *Terre quas tenebant milites de regina in Dorseta Hugo tenuit i mansionem de regina que vocatur Waiā q̄ tenuit Aluvinus ea die qū rex E. f. u. et m. Exon. D. 24.*

^a *Homines Eddid' reginæ held lands. Ibid, 144. 209. b.*

Un hō Eddevæ pulchræ ii virḡ et dim̄ ten̄. D. 148. b.

Alt hō regine Eddid' ii hid' et dim̄.—N. B. This was one of three socmen mentioned in the record. D. 149.

Sewelle—Hanc tenuit Walraue hō Eddid' reginæ, et potuit dare cui voluit. D. 209. b.

Aluuld' tenuit de Eddid' regina. D. 176.

Chent. Terra Alberti Capellani. Sidgar tenuit de regina Eddid'. D. 14. b.

In like manner the wives of subjects might have their *homines*. *Bockingeham, Manno Brito habet iiij burḡ qui fuerunt hoēs Eddeve femine Syred. D. 143.* Syred was alive at that time, as appears from this entry:—*Hoc Man̄ (Ditone) tenuit Sired hō Heraldī comes et vendē potuit. D. 148. b.* So Stockes, *ib.*

^b *At Tewkesbury, Mercatum, quod regina constituit ibi, redd' xi solid' et viii denar. D. 163. b.*

riage, with a manor her father had held^c; and his widow, probably, was her tenant of another manor^d.

To Mathilde, wife and queen of William the conqueror, were granted lands in various counties, possessed before by the English earls and thanes who had fallen in the battle of Hastings, or had incurred his displeasure from their opposition to his ambitious views^e. The entries in Domesday-book authorize the conjecture that she was alive, and in possession of the lands in question, when the compilation of that record was begun, but died before its completion, for in Buckinghamshire, under the title of *terra Mathildis regine*, she is stated to be then holding two manors, one gelding for fifteen hydes, the other for twenty, yet, at the conclusion of the second entry, she is mentioned to be then dead^f. In

^c *Hoc Mañ tenuit Wluuard hō reginæ Edded. T. R. E. et ipsa dedit huic Alsi cum filia Wluuardi. D. 153.*

^d *Hoc Mañ tenuit Eddeva uxor Wluuardi sub regina Eddid', et vendē potuit. D. 145.*

^e The lands mentioned in the text as lying in Buckinghamshire, are stated to have belonged to earl Algar; and, in several instances, the names of those who had forfeited the lands she held, are mentioned; some are stated to have been held by thanes.

^f *Mathildis regina tenet Morlave, pro xv hidis se def'. D. 152. b. Ipsa regina tenet Hanbledene, p̄ xx hid' se def' — quando vivebat regina xv lib. T. R. E. xvi lib. D. 152.*

Dorsetshire, under the head of *Terra regis*, is this memorandum, evidently implying that the queen was dead when that part of Domesday-book was first arranged;—*Has subter scriptas terras tenuit Mathildis regine*, and after specifying lands in seven different manors, is this additional memorandum, *Has octo infra scriptas terras tenuit Hugo f' grip de regina*, followed by parcels lying in eight different manors, which are named^g. It cannot be disputed that she died before the work was entirely finished, for the king is recorded to have given a manor for the repose of her soul^h. She is stated to have held by the king's grant other lands, which he had acquired by the right of conquest, and had fallen into his hands by the destruction or attainder of Harold's adherents. The manors of Turneberieⁱ and Fairforde^k, in Gloucestershire, are mentioned to

^g D. 75. b.

^h *In Scadewelle tenet abb 1 hid' et dim. v̄ træ.—Algar com tenuit. W. Rex dedit S^t Edmundo p̄ anima regine Mathild'. D. 222.*

ⁱ Gloucestershire. *Terra regis—Turneberie Hoc. M. fuit reginæ Mathildis. Hunfrid' redd' de eo 1 lib' ad numer̄. D. 163. b.*

^k *Ibi T. R. E. erant XXI hida et LVI villos et IX bord. cum XXX car̄.—Hoc m̄ tenuit Mathild' regina. Hunfrid. redd' XXXVIII lib' et x sol. ad numerū. De trā hujus m̄ ded' regina IIII hid' Johi camerario. D. 163. b.*

have been hers, but to belong to the king when the survey was made. The English land she died possessed of, could not have been settled upon her at her marriage, nor could she have had any title to it, except as the grantee and feudal tenant of the crown, and, in consequence of her so holding, it reverted back to the king at her death. When that event took place her sons were living, and yet they were not permitted to succeed to her lands, but were obliged to content themselves with those which had been set apart by the bounty of the crown for their sustenance. Motives of policy might be readily suggested in support of such an arrangement, and we might then presume that, though queens consort had power as *femes sole* to take lands from their husbands, and hold them free from their control, and alienate them during their lives, yet they did not descend to their heirs, and could not be devised without the specific consent and confirmation of the king. It is clear that queen Mathilde did, in fact, exercise the power of alienation over part of her estates, for R. Malet held twenty acres by her gift¹. To Roger de Busli she gave lands belonging to the manor of Tewkesbury, which gelded for four

¹ *In Borstuna 1 lib. hō lefrici de torenduna cōm̄d xx ac modo tenet R. Malet ex dono regine.* 2 D. 155.

hides^m, to Schelm a small quantity of land in Hameⁿ, to John the chamberlain, two parcels^o, two hides to the church of St. Stephen^p, and half a hide to Dodo *in elemosina*^q.

The power of disposing of real property was frequently exercised by queens consort, in favour of religious houses. Alswithe, the queen of king Alfred, began to erect a house for nuns at Winchester, which was finished by her son Edward^r. A grant was made to the church of Canterbury by king Cedwalla and his wife Keneldritha^s, and another by queen Elflæda *consentiente Ethelredo rege*^t. Cnute the king, and Ælfgifu his lady, gave to Eadsy their priest when he turned monk, liberty to convey his land at Appeldore

^m In Clifort, but belonging to the manor of Tewkesbury, *Hanc terram dedit regina Rogerio de Buslie, et geld' p̄ IIII hid' in Tedechesberie.* D. 163. b.

ⁿ *Hanc t̄ram dedit regina Schelm. modo habet rex in dñio.* D. 84.

^o *Tuninge regina dedit hanc terram Johi camer̄.* D. 163. b. See Fairforde, mentioned in note ^k, p. 19.

^p *Huic M̄ adjuncte sunt II hidæ, quas Mathildis (regine) regina dedit Sc̄to Stefano.* D. 78. b.

^q *Dodo tenet dimid' hid. et p̄ tanto geldavit—Hanc terram dedit regina Dodoni in elemosina.* D. 84.

^r 1 Mon. 212.

^s 1 Mon. 19.

^t 1 Mon. 20.

“as to himself most pleasing was,” and he gave it to the same church, the king and queen witnessing the grant^u. In another case, the same king and queen subscribed their consent to a grant^x. Elfgive, the wife of king Edmund, gave lands to the abbey of Glastonbury, by the command of her husband^y. After the conquest, Matilda, wife of Henry the first, granted to the abbey of Abingdon *in elemosina*, “Robert, son of Hervey, with all his land,” who had been given to her by Robert Gernon. Henry confirmed the grant in a separate instrument, and also issued a precept to Robert Gernon that he should promise to be at peace with Robert the son of Hervey, and his cattle, as he was when he transferred him to the queen and she gave him to the church. From the concluding words, it seems that Robert Gernon had disputed the validity of his conveyance to the queen^z. It is observable, that in all these cases the kings expressly joined with their

^u Somner, of Gavelkind, 213.

^x “*Consentientibus Canuto rege et Elfgiva regina sua.*”

¹ Mon. 21.

^y *Uxor ejus (sc. Edmundi) Elfgiva regina ejus jussu dedit, &c.* 1 Mon. 15.

^z *Et vide ne amplius clamore audiam.* MSS. Cotton. Claud. C. 9, 152.

queens in the grants, or consented to, or confirmed them; but it may be doubted whether any holder of land, however exalted his rank might be, could make a valid gift to a religious house, unless consented to and confirmed, not only by the king, but the wittenagemot also, without whose sanction the grants of the king himself were of no avail^a. In one instance Cnute signed a grant of lands, and Ælfgive his queen witnessed it, declaring that she had obtained it by her intercession with the king^b.

The queen consort was treated upon all other occasions as a *feme sole*, and acted as such. We frequently find queens attesting the grants of their

^a A. D. 838. *Ecgbertus et Athelwolphus rex filius ejus, dederunt Ecclesiæ Christi in Dorobernia Mallings in Souchsexan, quod, viz. manerium, prius eidem Ecclesiæ dedit Balredus rex, sed, quia non fuit de consensu magnatum regni, donum id non potuit valere. Et ideo isto anno in concilio apud Kingstone celebrato ab Archiepis. Doroberniæ Ceolnotho, restauratum est Ecclesiæ antedictæ. L. S. A. 1 Mon. 20.*

^b Cnute, in the nineteenth year of his reign, gave to the abbey at Abingdon, lands *trium manentium*.—This gift was to remain immovable, *eterna libertate jocundum cum omnibus ad se rite pertinentibus tam, &c.* *Teste Cnut. rex Anglorum concessu—Ego Ælfgiva regina hanc libertatem libentissime a prefato rege domino meo adquisivi, &c.* MSS. Cotton. Claud. C. 9, 127.

husbands merely by the signature of their names^c, but often recording their assent to the acts done^d; and in one instance, Elgifu, queen of Cnute, declared her confirmation of his grant by increasing it^e, and she notified her approbation of a gift to the abbey of Abingdon, signing after the king by the title of *predicti regis collatera*^f. A testamentary bequest of Thurstan was witnessed by king Edweard, and Ælgife his queen, and as the sheriff and all the thanes of East Saxony also attested, Hickes supposes it was done at a county court, at which the king and queen attended^g. The foundation charter of the abbey of Eynsham, granted by king Æthelred, is remarkable not

^c 1 *Hem. Chart.* 97. 220. 2 *Hem. Chart.* 379. 1 *Mon.* 52. 261. 3 *Hickes. Thes.* 51.

^d 1 *Hem. Chart.* 28. 33. 64. 70, 71. 86. 97. 2 *Hem. Chart.* 411. 1 *Mon.* 287, 288, 289.

^e *Ego Elgifu regina hanc regiam donationem augendo confirmavi.* 1 *Mon.* 283.

^f *Ego Ælfgiva predicti regis collatera istud donum crucis vexillo + consolidavi.* *MSS. Cotton. Claud. C. 9, 127.* And see *ante*, note ^p, p. 8.

^g The witnesses were “*Edweardus et Ælfgifa seo hlæfdige.*” There were other witnesses, and among them *Leofcyldus Vicecomes*, “and ealle tha thegenas on East Sexan, and beon heora menu frige æfter heora beira dæge.” 3 *Hickes. Thes.* 30.

only from its being subscribed by the king and queen, and six *clitones*, but from the signature of the queen coming after theirs^h.

Besides the revenue derived to the queen consort from her own manors and lands, she had the benefit of certain reservations and rents charged upon the revenues and demesne lands of the crown, expressly appropriated to her use, and entirely distinct and separate from the king. Thus, from the county of Oxford she received one hundred shillings numberedⁱ, and from the city of Norwich a similar sum^k. From the pleas of the county of Warwick, and the royal manors there, she also received one hundred shillings^l,

^h After the subscription of the king,—*Ego Æthelstanus ejusdem regis filius testimonium adhibeo. + Ego Ecbrihtus clito testis assisto. + Ego Ædmundus clito testificans affui. + Ego Eadredus clito non abnui. + Ego Eadwius clito consensi. + Ego Ædgarus clito scivi. + Ego Ædwardus clito non renui. + Ego Ælfgifu regina sciens testimonium adhibui.*
1 Mon. 261.

ⁱ Oxford county,—*de gersuma reginæ c sol. ad numerū p accipitre: x lib̄ p̄ sumario xx solid' p̄ canibus xxiii lib̄ denar̄ de xx in ora et vi sextar̄ mellis et xv denar̄ de consuetudine.* D. 154. b.

^k In Norwich,—*Modo Lxx lib̄ pensū regis, et c sol' ad numerū de gersuma regine, et i asturconē et xx lib̄ blancas comiti.* 2 D. 117. b.

^l The farm of the royal manors in the county of Warwick, and the pleas of the county, was *cxlvi lib̄ ad pondus, &c. et c solid' reginæ p̄ gersuma.* D. 238.

but it is not mentioned that they were to be reckoned by number. It is observable that the sum reserved to the queen in all these cases, was one hundred shillings, that the king derived from the same sources a much larger revenue, and that the reservation was made in Oxfordshire and Norwich *de gersuma*, and in Warwickshire *pro gersuma reginæ*. The word *gersuma* was used in various senses, and might mean any pecuniary exaction^m. It is not surprising that, where such large sums were paid annually to the king in money, there should have been some provision made for the queen also. In these payments have been traced, by high authorities, the *aurum reginæ*, which at one time after the conquest formed a source of revenue to the queen consort, and was made the subject of a learned treatise by Prynne.

Instances of the payment of rents in money to the queen, out of the demesne manors of the crown, may be produced from Domesday-book. From Lestone, in Bedfordshire, the queen received annually two ounces of goldⁿ, from Loi-

^m *Absque retinentia cujuslibet consuetudinis, sive servitii, seu alicujus gersumæ, aut seculari exactione.* 2 Mon. 973.

ⁿ *Lestone dominicum manerium regis. Inter totum redd' p̄ annū XXII lib' ad pensum et dimid' diem ad firmam regis, in frumto, et melle, et aliis rebus ad firmam pertinentibus.*

tone four ounces, and from Houstone two^o; and from these manors the king derived great profits in money, the rents being paid partly in kind. In Lene, in Herefordshire, existed a singular custom, for the steward of the manor was bound to present to the queen his lady, whenever she came within its limits, eight ors of pence, to gladden her heart, and, as has been mentioned before, upon the same occasion her attendants had the sum of ten shillings divided among them^p.

In the earlier period of our history, rents reserved out of land were payable in kind, and the wants of the lord supplied immediately from the produce of the soil. His demesnes were appropriated to the maintenance of himself and his family, and his vassals were bound to provide for his use such articles of consumption as he might stand in need of. In truth, he depended upon his own resources, not only for the comforts, but the necessaries of life. The queen was in a

Ad opus reginæ II uncias auri, et p̄ I sumario et consuetud' can LXX sol' et C sol' ad pensum, et XL sol' de albo argento. D. 209. There is a similar entry as to Loitone, only the rent to the king was thirty pounds, and the reservation to the queen four ounces of gold. Ibid.

^o So, from Houstone the king had ten pounds, and the queen only two ounces of gold. D. 209. b.

^p *Ante*, p. 9, note ^u.

similar situation ; from her own demesnes she derived sustenance and clothing for herself and attendants, but sometimes the possessions of the king were charged with reservations in kind for her benefit. Thus, in the hundred of Cirencester the king had five hides of arable land, and some in demesne, but the queen had the wool of all of them¹. And in Chingestone, in the county of Surry, Humphry the chamberlain had one of the villains belonging to the king's demesne in custody, on account of his having gathered the wool of the queen².

Concerning queens dowager little is to be collected. They seem to have been treated with great respect, and probably were present, not only at the three great festivals, but at other solemn assemblies of the king and his nobles.

¹ *Lana omnium regina habebat.* D. 162. b.

² The king had demesnes in Chingestone, in Surry. *De villanis hujus villæ habuit et habet Humfrid Camerarius unum villanum in custodia causa coadunandi lanam reginæ.* D. 30. b. This crime seems to have been punished with great severity, for the offender had been in custody for at least seven years. *Coaduno* means to gather together into one mass—*Multis pugnatoribus coadunatis.* Hoved. 249.—*Hujus loci canonicus, qui plurima hujus ecclesiæ bona coadunavit.* *Necrologium Lundense.* 3 Langebeck. 458. In the reign of Henry the second, the queen received twenty-one shillings and a penny annually for the wool of two manors.
1 Mad. Exch. 2.

In consequence, we find their names subscribed to several grants of the crown made to ecclesiastical persons and houses; and one of king Eadred is attested by not only Eadife, mother of the king, but by Ælfgifu, his concubine^s. A charter of Ethelred to the abbey of Tavistock, has the signature of Alftbrith his mother^t, and one of Hardicnute to another abbey has that of Ælfgiva, with a similar description^u. At the conclusion of a charter of privileges to the abbey of Abingdon, made by king Eadgar, Eadgive subscribes her name, with the addition of grandmother of the king^x, and another grant of land,

^s *Ego Eadred frater regis roboravi. + Ego Eadife mater regis adfui +.* And after bishops, *Ælfgifu concubina regis affui +.* Then four with the title of *Dux* after each, followed by several with that of *Minister*, but among them Offerth *dux.* 1 *Mon.* 353. Concubinage was recognized in the Saxon laws, and one of Ethelbirkth's expressly protects the concubine of an earl. Wilk. 3.

^t The king signed first, then Dunstan archbishop of Canterbury, and then *Ego Alftbrith, ejusdem regis mater, hanc donationem confirmavi.* 1 *Mon.* 218.

^u *Ego Heardicnute rex, &c. Ego Ælfgiva ejus regis mater collaudo. Ego Edward' predicti regis frater assentio,* and then others. *MSS. Cotton. Claud. C. 9, 128.*

^x *Ego Eadgiva ejusdem regis ava hanc dapsilitatem hilaris fore concessi.* *MSS. Cott. Claud. C. 9, 115. b.*

made by the same king, has a similar subscription^y.

It has been mentioned before that the dowager queen Emma, relict of king Ethelred, resided at Winchester, and in the Winton Domesday-book the house of queen Emma there is noticed to be in the king's demesne, whence we may conclude, that upon her death it had reverted to the crown. It is also stated, that in her time it was free from the payment of geld, and that in the king's hands it was similarly privileged^z. This house probably belonged originally to the crown, and was appropriated to the use of queen Emma upon the death of her husband, king Cnute, when Godwin, who had been earl of all Westsex, gave up the government of the country to her and the family of the deceased king, that it might be preserved for the benefit of her son Hardicnute, and contented himself with the command and management of its military concerns^a. Eadgith, relict of Edward the confessor, died at

^y *Ego Eadiva ejusdem regis ava hanc largitionem firmavi.*
MSS. Cotton. Claud. C. 9, 115.

^z *Dom̃ Emme regine fuit quieta. T. R. E. Et modo est quieta. Lib. Winton. 5. b.*

^a Godwin was earl of all Westsex, and after the death of Cnute, half-brother to Harold the first, -- *consilium ergo*

Winchester in the year 1075^b, and was brought with great pomp to Westminster, and interred near the body of her late husband.

We may presume, that the queens dowager enjoyed the profits of the lands which had been settled upon them at their marriages, and that the power of disposing of them after their deaths, which most, if not all of them, probably possessed, ensured them much attention, and gave them considerable influence. We have already noticed the grant of queen Emma to the church of St. Swithin at Winchester^c; and king Edmund confirmed a grant to the church of Glastonbury, made by Elfrida, the dowager of king Edward^d.

The word *Ætheling*, or *Adeling*, was well

inierunt, quod Emma regina cum regis defuncti familia conservaret Westsex apud Wincestre in opus filii sui; Godwinus vero consul dux eis esset in re militari. Hen. Hunt. 209.

^b 1075. *Eadgitha autem domina (hlæfdig) decessit in Winceaster. VII noctibus ante Christum festum, eam autem rex permisit afferri ad Westmynster cum magno honore et posita est juxta Edwardum regem suum dominum (hire hlaforde). C. S. 183.*

^c *Ante*, p. 13.

^d It is difficult sometimes to ascertain whether grants were made by queens consort, or queens dowager; here, for instance, the grant was "*de dono Elfredæ reginæ regis Edwardi.*"—1 *Mon.* 10. But it afterwards appears, that when she made the gift she was "*relicta regis Edwardi.*" *Ibid.* 15,

known among the German nations^e, and applied to all the order of nobility. “Ing,” or “ling,” was frequently made use of as a termination to denote descent or parentage. Thus the inhabitants on the banks of the river Saal were called *Salingi*; *Nordalingi* meant descendents of the north, and *Easterlingi* of the east. In like manner, *Frilingi* signified literally the descendents of freemen. *Ætheling*, therefore, may be traced to the word “æthel,” noble, and “ing,” a son or descendent, and signify “nobly born.” Instances occur of this termination being so used at this day, as in the words duckling, gosling, codling, starling, &c. From passages in *Ordericus Vitalis*, it should seem that the title of *Ætheling* was not lost in the reign of Henry the first, for he mentions *Gulielmus Adelinus Henrici regis Anglorum filius*^f.

The addition of “ing,” in the Saxon language, was frequently made to the name of the father to denote the lineage of the son. This is strongly marked in the genealogies which are preserved in the Saxon Chronicle; the most ancient is, in the year 495, that of Cerdic:—“Cerdic was

^e *Hi omnes Adalangi fuerunt, sic enim apud eos quædam nobilis prosapia vocabatur. Paul. Warnef. de gestis Long. lib. 1. c. 21.*

^f *Hist. Eccles. lib. 4. 122. b.*

“Elesing, Elesa Esling, Esla Giwifing, Giwif
 “Wiging, Wig Freawining, Freawine Freotho-
 “gafing, Freothogaf Branding, Brand Bældæg-
 “ing, Bældæg Wodening.” That is, Cerdic was
 the son of Elesa, Elesa of Esla, Esla of Giwif, &c.
 Under the year 954, in which king Ethelwulph
 died, his pedigree is given in the same manner,
 but the author is not content to stop at Woden^a.
 William of Malmsbury says expressly, that the
 sons of the English kings took the patronymic
 names of their fathers, and the son of Eadgar
 was called Eadgaring, the son of Edmund Ed-
 munding, but they were generally called æthel-
 ings^b. In the same manner, we find certain
 noble families were distinguished by surnames
 expressive of the stocks from which they drew

^a *Hickes. Diss. Ep. 3. Thes. 27.* The genealogy is
 traced from Sceafi, through Lamech, &c. to “Adam, the
 “first man, and our father, that is to say, Christ. Amen.”
 It is curious to observe the mixture of Saxon and Latin
 with which this absurd genealogy is deformed towards its
 conclusion; probably it ended originally, as the pedigrees
 of the northern chieftains were always anxiously made to
 do, with Woden, and the subsequent addition might be
 supplied by some priest, in honour of a king who appears
 to have been a great friend to the church.

^b *Filii regum Anglorum a patribus patronymica sump-*
serunt, ut filius Eadgari Eadgaring, Edmundi filius Ed-
munding vocentur, et cæteri in hunc modum, communiter vero
“ethelinge” dicuntur. Will. Malms. l. 1, c. 3, p. 12. b.

their origin. In the Life of St. Guthlac, a noble æthelaman of the Mercians is described as “of the oldest race, and the noblest (æthelstan), “which was named Iclingas^a.” In like manner, the royal posterity of Vuffa were denominated Vuffingas^b, and of Oisc Oiscingas^c. So Beowulph, the hero of an Anglo-Saxon poem, is called one of the Scyldingas^d. And Hickes has produced several similar instances, as Dyrling for the son of Dyrl, Tulling for the son of Tulli^e, &c.

Though the title of ætheling was originally given to private subjects, and the appellation extended to nobles in general^f, yet in process of time it was applied exclusively to members

^a Wanley's Catalogue, 245.

^b *Rex Reduald—filius Tytili, cujus pater fuit Vuffa, a quo reges orientalium Anglorum Vuffingas appellant. Bed. Hist. Ecc. lib. 2, c. 15.*

^c *Erat autem Aedilberet filius Irminrici, cujus pater Octa, cujus pater Oeric, cognomento Oisc, a quo reges Cantiorum solent Oiscingas cognominare. Bed. Hist. Eccl. lib. 2, c. 6.*

^d Wanley's Cat. 218.

^e *Diss. Epist. 24.*

^f *Æthelingas used for optimates. A. D. 443. Chron. Sax. 11. “Twegen geonge æthelingas mycelre glauwnesse “men of Angel deode Athelhun and Ecbyrht,” duo juvenes magnæ indolis de nobilibus Anglorum, &c. Bed. Hist. Eccles. lib. 3, c. 27. See lib. 2, c. 14, &c.*

of the royal family. William of Malmsbury, in the passage just quoted, says it was commonly assumed by all the sons of kings ; and in the year 617, Eadwin expelled the æthelings, sons of Æthelfrith, late king of Northumberland, Eanfrid the oldest, Oswald, Oswin, Oslac, Oswudu, Oslaf, and Offa^a. It was also given to the grandsons of kings. Ælfred acceded to the crown, though Æthelwald and another son of his elder brother Ethelbert were alive, and upon the death of Ælfred, his son Edward succeeded ; and Æthelwald his cousin, who bore the title of ætheling^b, lost his life in battle, fighting to dispossess him of the regal dignity. But it may be doubted whether the title belonged to the grandson of a king, where the father had never been seated upon the throne. Edward the confessor intending to make Edgar the grandson of king Edmund Ironside, but whose father Edward

^a *Omnes reges illi fuerunt Adelingi, id est de nobili prosapia, quæ apud illos dicitur Adelinga. Gotefrid. Viterb. An. 776. De Longobard.*

Lex Anglorum et Werinorum, 1. Si quis Adalingum occiderit 600 sol. componat, qui liberum occiderit 200 sol. componat, — qui servum occiderit 30 solid. componat. Lindenbr. 482.

^b *Æthelwaldus clito ejus patruelis (Æthelwald ætheling his fædran sunu). C. S. 99. See ibid. 101.*

had been excluded from the throne his successor, distinguished him by the title of ætheling^a, and historians in general adopted it afterwards. In the Saxon Chronicle he is frequently styled Edgar Ætheling^b, and so he is in Domesday-book^c. The title descended to the king's sons, though by different mothers, but not to the son of an ætheling, as in the case of Edgar just mentioned, who seems to have assumed it, not as his right by birth, but as the relation^d and by the nomination of the reigning monarch. So Byrhtsige is described simply as the son of Beornoth the ætheling in a passage recording his death, as well as

^a In the laws of Edward is a short history of the Norwegian and Danish laws in Britain. *Et quia cogitabit (sc. Edwardus) ipsum (sc. Edgarum) hæredem facere, nominavit Ethelinge, quod nos Domicellum, i. e. Damisell. Sed nos indiscrete de pluribus dicimus, quia Baronum filios vocamus Domicellos. Angli vero nullos nisi natos regum. Quod si expressius volumus dicere in quadam regione Saxonie Ling imago dicitur, æthel, Anglice nobilis est, quæ conjuncta sonant, nobilis imago. Unde etiam occidentales Saxonici scilicet Excestrenses habent in proverbio summi despectus hinderling, i. e. omni honestate dejecta vel recedens imago.*

^b P. 173, 174, 182, &c.

^c *Terra Edgari Ædeling*—in Hertfordshire. D. 142.

^d In 1085, upon king William going into Normandy, *Edgarus clito Edwardi regis propinquus (mæg) ibi ab eo defecit, propterea quod haud magno honore apud illum habebatur.* C. S. 187.

that of Æthelwald the ætheling^a. And Ethelstan, in the year 938, gave lands to a religious house for the souls of his cousins Elswin and Ethelwin, sons of Ethelred the *clito*^b.

It may be questioned whether any of the descendents of a king, beyond his sons and grandsons, were entitled to this appellation and rank, and the sons of brothers of kings not unfrequently describe themselves as such without this honourable distinction. An instance, however, may be mentioned of the title of ætheling being connected with the name of the brother of a king, who had no claim to the throne by descent.

In the year 754 Cuthred, king of the West Saxons, died, and was succeeded by his relation Sigebright, as Florence of Worcester says, the son of a *Subregulus*^c, but descended lineally on the father's side from Cerdic. Cynewulf, a relation of Sigebright, expelled him, and reigned many years after his death. To secure himself upon the throne, he endeavoured to remove from

^a A. 905. *Danorum item ex parte interfectus fuit Eohricus eorum rex et Æthelwaldus clito, qui eum ad seditionem attraxerat, et Byrhtsigus, Beornothi clitonis filius.* C. S. 101.

^b *Pro animabus patruelium meorum filiorum Ethelredi clitonis, videlicet Elswiric et Ethelwini, &c.* Wil. Malms. *de gestibus Pontif. Ang. lib. 5.* 2 *Anglia Sacra.* 31.

^c *Florent. Wigorn.* 694.

his kingdom Cyneheard, the brother of Sigebright, who is described as an (æne) ætheling^a, though his father had never been king. The word ætheling may be used here in its original general sense, to denote that the bearer of it was of noble birth and rank, not that he was of royal blood.

In the *Textus Roffensis*, supposed to have been written by Ernulf, made bishop of Rochester in the year 1114, it is said that an archbishop, and the son of the king *born in wedlock*, had similar rights in many respects, as in contempts, manbotes, weres, and forfeitures^b. This passage implies that the title of ætheling belonged of right only to the king's legitimate sons; for a reference to the laws just quoted, shews that æthelings alone were entitled to these privileges, and placed upon an equality with archbishops. An instance however occurs, in which the title of ætheling was given to the illegitimate son of a monarch, for in 1013 Ethelred sent the æthelingas, Eadward and

^a C. S. 56, &c.

^b *Alius archiepiscopus et filius regis de legali conjuge habent similem secularem rectitudinem in multis rebus; hoc est, in despectu, in emendatione hominis occisi, quod dicitur manbote; et in multis aliis diversis rebus, id est, were, pretio reildendo, et foris factura utroque æque magnum et carum. Text. Roff. 45.*

Ælfred, over sea for their education, and two years afterwards duke Eadric betrayed and murdered Sigeferth and Morcar, two most powerful thanes. Ethelred immediately seized their estates, and ordered the widow of Sigeferth to be conveyed to Malmsbury. The Chronicle states, that Ædmund Ætheling soon after came and married her against the king's consent, and then invaded the lands which had belonged to Sigeferth and Morcar, and driving out the Danes, possessed himself of them^a. This Ædmund Ætheling must have been Ædmund, afterwards surnamed Ironside, who, though of illegitimate birth, succeeded his father as king in the following year, to the exclusion of his two brothers born in marriage.

From the Saxons the Britons borrowed the title of edling, applying it to such son, brother, or brother's son of the king, as he declared to be his successor; he was in rank next to the king and queen, was placed in the royal palace, waited upon by the king's attendants, fed at his table, provided with horses and carriages, and furnished with dogs, rings, jewels, and arms, at the king's expense. But, dazzling as was the splendour in which he lived, it could not prevent his feeling

^a C. S. 56, &c.

that his comforts and pleasures were dependent upon the will of another. He was not allowed to have any of his own attendants about him, nor to be absent for a single night without the king's permission, and the king even reserved to himself the right to give away his old garments at the three great festivals. Some precaution was necessary to prevent the alienation of the edling's territories, and the enjoyment of all his honours was made to depend upon his continuing to hold the lands which had been given to him. The weregild of the edling was estimated at one third part less than that of the king^a.

What were the honours or privileges belonging to the sons of the Saxon kings is no where distinctly stated, and it is remarkable that the sons of William the conqueror are not mentioned in Domesday-book as holding any land, but William, one of them, is stated to have unlawfully seized upon some^b. The Saxon Chronicle states however that, after Edward the confessor had given to Edgar the title of ætheling, he placed him in his own palace, and it should seem, though it is

^a *Leges Wallicæ*, 12

^b *Dorsete Staplebrige. De eadem etiam terra ten Ma-*
nasses III virg. quas W filius regis tulit ab æcclā sine consensu
epi et monachorum—Ibi ē 1 car. D. 77.

equivocally expressed, treated him in the most honourable manner^a.

Like other subjects of high rank, æthelings had their thanes and other attendants. Ætheling Æthelstan, son of king Ethelred, devised to Eylmere, his dish-thane, eight hydes of land, a horse, and his sharp swords and target; and to his dierhunt, a horse. And he mentioned in his will, land which Aelmere, his cniht^b, had given to him, and to his cniht Elfuuine he bequeathed the sword which he had given to him some time before. The daughters also of the king, we may presume, had their regular establishments, for Goisfrid is described in Domesday-book, as the

^a 1074. *Mansit autem ille* (i. e. Edgar Ætheling) *in aula regis* (cynges hyrede) *et jura accepit quæcunque ei rex concessit.* C. S. 182.

^b Somner, of Gavelkind, 198. In the progress of human life among the ancient Saxons, was reckoned, as the first stage, childhood, which lasted till the infant was eight years old, and the period between childhood and manhood was called cnihthood. A cniht therefore, in the original signification of the word, meant a boy above eight years old, and he retained the appellation till he became a man. But it was afterwards used for a servant or attendant. Many cnihts were assembled in the royal palaces, and in the households of the queens, æthelings, and great men. They seem to have nearly resembled the pages of later times. We shall have occasion to enter into a full discussion of their condition and privileges in the second part of this work.

chamberlain of Mathilde, daughter of William the conqueror, and doing for her the service required, for a hide of land the king had granted to her^a.

The were or weregeld was the sum, at which in the Saxon laws the life of every individual was valued, and which, in case of his being killed, was to be paid to his relations, as a compensation for their loss. It was also the penalty paid by an offender for the commission of certain offences. This of course varied according to the condition of the party, and its variations afford an accurate mode of ascertaining the relative dignity of the members of the state. Among the Angles, the were of the king was 30,000 thrymsas; of an ætheling was 15,000 thrymsas; of a bishop or ealderman 8,000; of a hold or high gerefa 4,000; of an ecclesiastical or secular thane 2,000, and of a ceorl 266 thrymsas, equal to 200 shillings according to the Mercian law^b. But

^a In Hampshire, among the titles is *Goisfridi*, with the word *camerarii* inserted over it, and the entry begins, *Goisfrid' camerarius*, with *filie regis* above the word *camerarius*, *ten de rege*.—*Hanc hid' calūniat Odo de Win̄c dicens se illam habuisse in vadimonio p̄ x lib' de alsi c̄essione regis W. et idō injuste eam p̄dit. Goisfrid' vero tenē eam de rege p̄ servitio q̄d fecit Mathildi ejus filie.* D. 49.

^b *De capitis æstimatione. Regis æstimatio capitis (wer-geld) est apud Anglos juxta jus gentium (on folcright) 30 mille thrymsarum, 15 mille thrymsæ sint pro ipsius capitis*

according to that law, the were of the king was 30,000 scætta, equal to 120 pounds, the amount of the were of six thanes; and that of a thane

æstimatione, et 15 mille pro regni; æstimatio capitis competit cognatis, et compensatio regia populo.

Æstimatio capitis nobilis (æthelinges wergyld) est 15 mille thrymsæ, episcopi et senatoris (ealdermanner) 8 mille thrymsæ, ducis et summi præpositi (holder et hehgercffiā) 4 mille thrymsæ.

Ministri (thegener) ecclesiastici, et ministri (thegenes) secularis duo millia thrymsarum.

Coloni æstimatio capitis (ceorles wergild) est 266 thrymsarum, quæ faciunt 200 solidos juxta legem Merciorum.

Et si Wallus tamen habeat portionem terræ, et regis tributum (gafel) producere queat, tunc æstimatio capitis ejus sit 220 solidi.

Et si non habeat plusquam dimidiam hydam, tunc æstimatio capitis ejus sit 80 solidi.

Et si nihil terrarum habeat, et tamen liber sit, compensetur 70 solidis.

Et si rusticus (ceorlise man) tamen habeat quinque hydas terræ ad regis egressum, (utfare), et si ipse occidatur, compensetur duobus millibus thrymsarum.

Et si tamen habeat galeam, thoracem et gladium inauratum, si terram non possideat, sit tamen nihilominus colonus (ceorl).

Et si filio ejus et filii filio accidat, ut tantam terram postea habeat, sit soboles ejusmodi conditionis per duo millia thrymsarum. Et si hoc non habeat, neque ad id pervenire possit, solvatur compensatio coloni.

De lege Merciorum. Coloni æstimatio capitis est, juxta legem Merciorum, 200 solidorum; thani æstimatio capitis est tot solidorum sexies repetitorum hoc est, mille ducentorum solidorum. Tunc regis simplex compensatio capitis est sex thanorum compensatio capitis, juxta Merciorum legem, hoc est, 30 millia scættarum, et hæc omnia faciunt

1,200 shillings, being six times the were of a ceorl, which was only 200.

Probably, at the time of promulgating this law, there were no archbishops among the Angles, but in the reign of Æthelred (A. D. 1014) we find that the ætheling was put upon an equality with an archbishop, for the mundbryce of the king was to be compensated with five pounds, of an archbishop or ætheling with three pounds, of any other bishop or alderman with two pounds^a. And if any one began to fight in presence of an ætheling or archbishop, he was to pay 150 shillings, if in the presence of any other bishop or

120 libras. *Tanta est æstimatio capitis [in jure gentium (folces folcriht) juxta legem Merciorum, et pro regno aliud quid ad compensationem requiritur in compensatione regia. Æstimatio capitis incumbit cognatis, et compensatio regia populo.]*

Juramentum mille ducentorum solidorum hominis valet ac 6 colonorum juramentum, quoniam si a MCC solidorum hominū ultio sumenda est, integra ultio sumitur a sex colonis, et æstimatio capitis ejus sit sex colonorum æstimatio capitis. Judicia Civitatis Lundoniæ. Wilk. 71, 72.

These two last paragraphs, excepting the words included between [brackets,] are copied in the laws of Æthelstan. Wilk. 64.

^a *Et si quis nihilominus regie pacis fractionem (mundbryce) commiserit, compenset hoc quinque libris juxta legem Anglorum (on Engla lage): archiepiscopi et nobilis (æthelinges) fractionem pacis tribus libris, ulterius episcopi et senatoris duabus libris. Lib. Const. Wilk. 111.*

alderman, 100 shillings^a. By a law of Cnute, which related to the whole kingdom, the breach of the borh, or pledge of the king, archbishop, ætheling, bishop or ealdorman, incurred the same penalties as had been inflicted by the foregoing law of Æthelred for breach of their respective munds, and the ætheling and archbishop were protected by the same fine^b.

It is probable, that to the king's sons were appropriated certain lands for their honourable maintenance. Ethelred, who began to reign in A. D. 978, at only ten years of age, is made to say that, upon the election of his brother to be king three years before, "the nobles delivered
"to me for my use, the lands belonging to the
"king's sons," and then, "my brother dying,
"I assumed the dominion both of the royal lands
"and of those belonging to the king's sons^c."

^a *Et si quis coram nobili (æthelinge) vel archiepiscopo pugnam inceperit, cum CL solidis emendet, si coram alio episcopo vel senatore hoc accidat, cum C solidis hoc emendet. Lib. Const. Wilk. 111.*

^b *Si quis regis fidejussionem violaverit (eyninges borh abrece) emendet hoc quinque libris; si quis archiepiscopi vel nobilis (æthelinges) fidejussionem violet, compenset hoc tribus libris; si quis episcopi diocesani vel senatoris fidejussionem violet, emendet hoc duabus libris. Ll. Cnuti. 55. Wilk. 142.*

^c Ethelred declares, that the great men unanimously elected Edward to succeed his father, *Mihi que terras ad*

It seems that Edgar had given some of the lands belonging to his sons to the abbey of Abingdon, and upon the accession of Edward, the wittenagemot had compelled the abbey to surrender them up to Ethelred, who, after his accession to the throne, had been taught to doubt the justice of this proceeding, and thought it his duty to make compensation. The land mentioned as “belonging to the king’s sons,” may have been, not lands set apart for them at all times, and dedicated to their use, but such as any of them

regios pertinentes filios in meos usus tradiderunt. Ex quibus, scilicet terris quas dum pater meus dum regnaret omnipotenti Christo ejusque genitrici scē Mariæ ad monasterium, quod Abbandun nuncupatur, pro redemptione anime sue concessit, hoc est bedewide, &c. Que statim terre juxta decretum et preceptionem cunctorum optimatum de prefato sancto cenobio, violenter abstracte, meeque ditioni hisdem precipientibus sunt subacte. Quam rem si juste aut injuste fecerint ipsi sciant. Demum cum frater meus hoc exumnosum deseruit secundum et sibi a Deo predestinatum percepit interminabilis vite emolumentum. Ego annuente Christo et regalium, simul et ad regios filios pertinentium terrarum, suscepi dominium. Hunc autem quia mihi videtur esse valde molestum patris mei incur-rere et portare maledictum retinendo hoc, quod ipse pro sue anime redemptione Deo contulit donarium, et quia gratia Dei me ad intelligibilem producere dignata est etatem mihi que per meorum optimatum decreta affluentem et copiosam terrarum largita est portionem iccco et ego ex mea propria hereditate prefatum sanctum cenobium munere congruo honorare et opportuna possessionum largitione ditare dispono primum, &c. MSS. Cotton. Claud. C. 9, p. 123. b.

had happened to possess in their private right in the reign of their father Edgar. He had one son, Edward, by his first wife Elfleda, and by Elfrida Edmund, who died before him, and Ethelred. When Edward succeeded to the throne, the nobles may have given to Ethelred such lands as had been held by Edmund, who was then dead, or by Edward at the time of his accession, and afterwards when Ethelred became king, as there was no son of a king living, he might succeed to the royal lands, and also retain those which had been granted to him before, whether they had belonged to his brothers or not.

Clito was the Latin word generally used for ætheling, as well by the monkish historians as in solemn instruments. *Simeon Dunelmensis*, in one place, has both the Latin and Saxon appellation and writes “*Elfredus, i.e. clito, ætheling*,” and in another he describes Edward and Edmund, sons of king Edmund, by the diminutive *clitunculos*. To a charter made in 966, Edmund and Edward, sons of Edgar, signed their names as witnesses, the former with the title of

^a In *Ordericus Vitalis*, lib. 12, p. 854, is a passage which may be thought to prove that *æthelingi* and *clitones* were not always the same. *Guilelmus quoque Adelingus Guilelmo Clitoni consobrino suo palafridum, quem in bello perdiderat remisit.*

clito legitimus, son of the said king, the latter *clito procreatus*, without further addition^a; and in 1007, Æthelstan, son of Ætheldred, subscribed a charter, describing himself as son of the king, and mentioning the *clitones* his brothers^b. The foundation charter of Eynesham has been alluded to before^c; it was signed first by king Æthelred, then by Æthelstan, described to be son of the

^a Selden tells us, that in the subscription to king Edgar's reformation of the order of Benedictines in 966, after the king and archbishop of Canterbury come, + *Ego Eadmund clito legitimus præfati regis filius crucis signaculum infantili florens ætate manu propria indidi.* + *Ego Eadward eodem rege clito procreatus præfatam patris munificentiam crucis signo consolidavi.* Titles of Honour, 3. Selden's Works, 636.

^b And in a charter of Ætheldred, in 1007, to the abbey of St. Alban's, after the subscription of the archbishop of York follows, + *Ego Æthelstan filius regis cum fratribus meis clitonibus adplaudens consensi.* Ibid.

It is recorded in the Saxon Chronicle, p. 33, that Penda, king of the Mercians, lost his life in battle in the year 655, and thirty "cyne bearna" with him. The original sense of the word "bearna" being sons or *children*, this passage may at first sight convey an impression that the word *ætheling* or *clito* was not generally applied to every son of the king, but bishop Gibson seems to have properly translated this passage by the words *prole regia*, royal progeny. There might be thirty of Penda's descendents killed in that battle, but it is hardly to be supposed that thirty of his sons lost their lives in it.

^c *Ante*, p. 24.

kiog, followed by Ecbright, Ædmund, Eadred, Eadwy, Edgar, and Edweard, each having the addition of *clito* only to his name. Florence of Worcester states, that Æthelred by his first wife Algiva, daughter of earl Ægilbert, had three sons, Eadmund, Eadwy, and Æthelstan, and by his second wife Emma two more, Ælfred and Edward. Æthelstan is mentioned, not as the eldest, but the third son by the first wife^a. Why his signature comes first, and he has the appellation of *filius regis*, instead of *clito*, I cannot explain. Other objections may be made, for the king's sons mentioned in the historian are only four in number, exclusive of Æthelstan, but the grant is attested by six, and Ælfred, one of the four, is not a witness to the grant. This last difficulty would not be removed, if we might suppose that the additional names were those of illegitimate sons of the king, for we have seen that such sons were not usually distinguished by the title of æthelings.

Here it is necessary to remark, that it was not uncommon for the sons or brothers of kings to be described by their respective degrees of consanguinity. To a charter of confirmation made by

^a *Florent. Wigorn.* 694.

Withlaff king of the Mercians, but before his name, were the signatures of Egbert, king of West Saxony, and then of Adelwulph, styled “son of the king of West Saxony^a.” And to a grant of Edgar made to Ramsay abbey, is the attestation of “Edward, the said king’s son,” and Æthelred, “his brother^b.” A grant of Æthelred to the abbey of Shaftesbury was attested by Æthelstan and five of the princes, who subscribed the grant to the abbey of Eynsham, their names being signed with the addition of “son of “the king” only to each^c. Another grant of the same monarch was subscribed by him, and by Æthelstan, Edmund, Ædwig, Ecbright, Ædred, and Edward, with the like addition to each^d. At the foot of another grant are the names of Æthelstan and five others, without addition, but at the end of the names come the words *filii regis con-*

^a *Ego Egbertus rex West Saxonie concessi. + Ego Adelwulphus filius regis West Saxonie consensum dedi.*
1 Mon. 167.

^b *Signum Edwardi ejusdem regis filii. + Signum Æthelredi fratris ejus.* + And then Dunstan, archbishop of Canterbury, and others. 1 Mon. 236.

^c The names subscribed were Athelstan, Edmund, Eadwig, Ecgebirht, Ædred, and Ædgar, with *filius regis* after each. 1 Mon. 217.

^d 1 Mon. 217.

sensimus, applying to them all^a. The instance, mentioned in the preceding page, of a brother of a king being so described, is by no means singular, for Ethelred, brother of Wulfer king of the Mercians, is styled the king's brother in the Saxon Chronicle^b, and Ædred, one of the before-mentioned sons of Æthelred, is called the brother of king Eadmund^c.

Somner has preserved a copy of the very curious will of Æthelstan Ætheling, the son of king Ethelred, made in the year 1015^d. It was written in the Saxon language, but Somner has translated it into English. Æthelstan devises lands, of which some had been bought from his father, and others acquired by gift from different persons, and uses these expressions,—“Now thank I my father
“ with all humility, in God Almighty's name, for
“ that answer which he to me sent on Friday after
“ Midsummer mass-day, by Elfgare, Elfstane's
“ son, which was, that he to me signified by my

^a MSS. Cotton. Claud. C. 9, 125, and again, 125. b.

^b C. S. 34, 37.

^c 1 Mon. 353.

^d Of Gavelkind, 198. See *Hickes. Diss. Ep.* 61, and App. to Lye's Saxon Dictionary. The maker of this will in A. D. 1015, could not be the Æthelstane, son-in-law of the king, who is mentioned in the Saxon Chronicle to have been killed in the year 1007, p. 139.

“ father’s message that I might, by God’s per-
“ mission and by his, give my lands and my
“ possession (egte) for God and for the world.
“ And of this answer is to witness Edmund my
“ brother, and Elfsy, bishop, &c.” And, after
mentioning some other witnesses, he prays all
that hear his will read, to assist it may stand,
“ sith my father giveth leave for my will’s stand-
“ ing.” And this, he says, is for his father’s
soul, his own, and Elfrith’s, his grandmother,
“ that me fed, and for all theirs that me to this
goods helped.” From an ætheling being obliged
to obtain the king’s consent, to give validity to
his grant of lands to the church, it does not follow
that he laboured under any peculiar disabilities,
or was more dependent than any other subject
upon the crown, for it has been observed before^a
that even the queen consort was in a similar
situation.

^a *Ante*, p. 22.

CHAP. II.

OF EALDORMEN AND EORLS.

IN an early period of the Anglo-Saxon history all titles of honour, or rather names of office, were expressive of old age in the persons who enjoyed them. The word "*eldest*" was used synonymously with *greatest*^a; a ruler, whether in civil or ecclesiastical^b concerns, was called an "ealdre," or "ealdor," and the title of "ealdorman" was generally used to denote a person invested with official superiority and power^c. In

^a 1015. Sigferth et Morcære, tha yldestan thægenas into Seofon burgum. C. S. 146.

1012. Eadric ealdorman and ealle tha yldestan, witan. Ib. 142.

978. Yldestan Angelcynnes witan. Ib. 124.—In this and the former passages the word yldestan may be synonymous with heagh, as—1009. Tha ealdorman et tha heah witan. Ib. 138.

^b *Æcclesiæ senior*—cyricean ealdor. *Ll. Ælfr.* 5. Wilk. 36. 1097. *Multos duces*—manege ealdras. C. S. 205.

^c And seems to have been known upon the Continent as well as in England, for in 495 two "ealdormen" came into Britain, Cerdic and Cynric his son. Ib. 15.

Aylwin, the son of Æthelstan, was called ealderman of all England. Tit. Hon. 3. Seld. 505. *Hist. Ramsien.* 3.—

the Saxon Chronicle it is the denomination of a British general ^a. And *satrapa*, a title applied by Bede to a Saxon chief who had the government of a district confided to him ^b, is translated by king Ælfred “an ealdorman.” This latter appellation was given indiscriminately as well to persons who presided over small as large districts, for we read of the ealdormen of cities, walled boroughs, castles ^c, hundreds ^d, shires, and pro-

In some grants of land to the abbey of Ramsey he is styled simply ealderman, and signs his name *Ailwinus*, ealderman. 1 Mon. 233. &c. In 1007, Edric was made ealderman of all the kingdom of Mercia, C. S. 136, as Ethelred had been made before by Ælfred. Ib. 103.

^a In 607. In a great battle near Chester, the monks of Bangor were slaughtered, *Brocmæl dictus est eorum dux* (heora ealdor-man) *qui cum quinquaginta plus minus inde evasit.* C. S. 25.

^b *Bed. Hist. Eccles.* 624.—*Ego Æthelmer filius Æthelwerdi, satrapa regis Æthelredi.* 1 Mon. 254.

^c *Habent etiam aldermanni in civitatibus regni hujus in ballivis suis, et in burgis clausis, et muro vallatis, et in castellis eandem dignitatem et potestatem et modum qualem habent prepositi hundredorum et wapentachiorum in ballivis suis sub vicecomite regis per universum regnum.* Ll. Ed. Con. 35. Wilk. 204.

Præsit autem singulis hominum novenis decimus, et toti simul hundredo unus de melioribus, et vocetur aldremannus, qui leges, et hominum jura vigilantibus studeat observantia promoveri. Ll. H. 1, c. 8. Wilk. 240.

^d *Seniori hundredæ*—Hundredes ealdre. Ll. Eadg. Wilk.

vinces. In this sense of the word it was applied to the four thanes who were appointed by some laws of Cnute to govern his forests and administer justice, and under each of them were four inferior officers called “young men,” to take care of the vert and venison. We shall take occasion, in our next chapter, to quote these laws at considerable length; at present we shall only remark, that the different duties assigned to these officers strongly indicated the different nature of each. The ealdormen were to exercise judicial authority, and to command the young men to act ministerially in obedience to their orders. In like manner, upon the Continent, the distinction between *majores* and *juniores* was well known, the latter being the ministerial officers, agents, or servants of the former in other matters as well as affairs of justice. In the Laws of the *Alamanni* the *junior* of a keeper of pigs is mentioned, and also the *junior* of a cook^a. The servants of monasteries had the same denomina-

81. And in *Ll.* 91, *Aldermannus hundredi* is mentioned as invested with judicial power. *Wilk.* 280.

^a *Pastor porcorum, qui habet in grege 40 porcos et habet canem doctum, et cornu et juniorem, &c.* And afterwards, *Coquus, qui juniorem habet, &c.* *Ll. Alaman. Tit. 79, s. 1. & 5.*

tion^a, and so had the officers and attendants of military commanders^b. It was frequently also applied to the ministerial officers of earls and hundredaries in their courts of justice^c. The only instance, which I am able to produce, of the use of the word in any English document or charter is from the *Textus Roffensis*, where it is mentioned that Ethibald king of the Mercians, in the seventeenth year of his reign, gave to Adnulf and the church of the blessed Andrew

^a In an ancient grant to a monastery was a reservation *ibi victum et vestitum habeam sicut primus illorum juniorum, hoc est, omnibus annis vestimentum lineum, et aliud laneum, et alias impensas accipiant sic cæteri in ipso ministerio. Du Cange. Juniores.*

^b *Charta Caroli M. apud Sigonium, A. D. 802. Quod aliqui duces, eorumque juniores, castaldii, vicarii, centenarii, venatores, &c. Du Cange. Juniores.*

^c *Capitulare 1 Caroli M. ann. 802, c. 25. Ut comites et centenarii omnes ad justitiam faciendam compellant, et juniores tales in ministeriis suis habeant, in quibus securi confidant, &c. Du Cange. Juniores.*

Ll. Long. Lib. 3, Tit. 12, s. 1. Audivimus etiam quod juniores comitum vel aliqui ministri reipublicæ sive etiam nonnulli fortiores vassi comitum aliquas redditiones vel collectiones, quidam per pastum, quidam sine pasto, quasi deprecando a populo exigere solent. Similiter quod operas, collectiones frugum, arare, seminare, runcare, carrucare, vel cetera his similia, a populo per easdem vel alias machinationes exigere consuevere.

the apostle the profits of a ship in the port of London, without interruption from any great men, collectors of tolls, or even juniors^a. Juniors here we presume to mean public officers, who, if there had been no royal exemption, might have exercised some authority over the ship.

A very ancient division of the kingdom of England was into hydes, but afterwards it was portioned into shires. Over each of these latter was placed, for ecclesiastical concerns, a bishop, sometimes called the shire bishop, and for civil affairs an ealdorman, denominated the king's ealdorman^b, and from the latter the district over which he presided obtained the appellation of his ealdordom^c, or scire^d.

In the Saxon laws and chronicles, ealdormen are frequently mentioned without any accompanying word to denote their dignity, and in general, where that is the case, the presiding officers of shires are alluded to. The office of such an ealdorman was the most important, as well as in point of dignity the highest, which

^a *Quæ donatio ut in perpetuum firma et stabilis sit, ita ut nullus eam regum, vel optimatum, vel teloniariorum, vel etiam juniorum, quilibet in parte aut in toto in irritum præsumat, &c. Text. Roff. 67.*

^b *Jud. Civ. Lund. Wilk. 69. Ll. Ælfr. 34. Wilk. 42.*

^c *Ll. Eadg. Wilk. 82.*

^d *Ll. Inæ. Wilk. 20.*

could be enjoyed by a subject. His rank was next to the ætheling^a, to whom, however, we may conclude that he was much inferior, since we find in the reign of Æthelstan, among the Angles, his weregild fixed at 8,000 thrymsas, while that of an ætheling was 15,000^b. It has been mentioned^c that in subsequent laws, which will be quoted hereafter more at large, an ætheling and an archbishop appear to have been of the same rank, and bishops and ealdormen were classed together next in order, above the rest of the nobility.

The ealdorman of each shire was appointed by the king, he was entrusted with the general administration of government and justice within his district, he had the management of its police, the collection of its revenues, and, to assist him in holding courts of justice, might have a deputy^d. He presided at the folcgemotes, or public meetings of his shire, and with the bishop^e administered

^a *Jud. Civ. Lund.* Wilk. 71.

^b *Ibid.*

^c *Ante*, p. 44.

^d *Ll. Ælfr.* 34. Wilk. 42. A law against forcibly disturbing public assemblies concludes,—*Si hoc coram regii senatoris (ealdormannes) substituto, vel regis presbytero accidat, sit pœna 30 solidi.*

^e *Rex Æthelstanus præcepi episcopis meis et præpositis ac præfectis meis omnibus* (beoth his bisceopum, and his ealdor-

justice in its courts. He was also one of the wites, or wise men, and as such a member of the wittenagemote, or great council of the nation^a.

It was the duty of the ealdorman to provide for the defence of his shire, and, in the early part of the Anglo-Saxon history, he directed its military concerns in person and led its forces to battle. In 495 two Saxon ealdormen, Cerdic and Cynric his son, invaded Britain^b. In 750 Cuthred, king of the West Saxons, fought against Æthelhun, the ofer-medan ealdorman^c. In 851 (four hundred years after Hengist arrived in this country) Ceorl, an ealdorman at the head of

mannum and his gerefum eallum) *per totum regnum meum, ut ita pacem teneatis uti vobis constitui, ego et sapientes mei. Si—tunc perdat præpositus (gerefa) præposituram suam, (his folgode) et amicitiam meam, et det mihi 120 solidos, et dimidium hujus omnis meus thanus, qui terras habeat et justitiam servare nolit, ita ut ego præcepi. Jud. Civ. Lund. Wilk. 69. See also Ll. Eadg. 5. Wilk. 78. Ll. Cnut. 17. Ib. 136.*

^a *Ll. Inæ. Wilk. 14.—Cum omnibus meis senatoribus (ealdormannum) et senioribus sapientibus (yldestan man-witum) populi mei, &c.*

Principes regis, Ælfred translates into “kyninges ealdormen.” Bed. Hist. Ecc. Lib. 3, c. 24.

^b *C. S. 15.*

^c *Ib. 56.* Here bishop Gibson improperly renders the word ealdorman by the Latin word *dux*, and so in other places.

the people of Devonshire, fought the pagan army^a. In 860, we find Osric the ealdorman commanding the men of Hampshire in an engagement, and Æthelwulf the ealdorman those of Berkshire^b. In 871, ealdormen and king's thanes are mentioned as making excursions against the Danes^c. In 894, Æthered, Æthelm, and Æthelnoth, all described as ealdormen, with the king's thanes, who were then at home in their fortified places, collected together forces from many burghs to repel the pagans^d. And in 993, Byrhtnotus, the ealdorman, is stated to have fought *mid his fyrde*^e, *i. e.* with the persons belonging to his district, who had been called out for the expedition. It is probable that though the ealdorman might in later times continue to superintend the military œconomy of his district in other respects, that the command of its troops was trusted most frequently to heretochs or dukes^f.

An ealdorman was peculiarly protected, both with respect to his property and person as an

^a C. S. 74.

^b Ib. 78.

^c Ib. 82.

^d Ib. 94. Æthelm was ealdorman of Wiltshire, and died in 898. C. S. 99, where the word ealdorman is translated into *comes*.

^e C. S. 127.

^f Bede uses the word *duces*, which Ælfred translates by "heretogan and ealdormen." *Hist. Ecc. Lib. 3. c. 24.*

individual, and in the execution of his duties as a public functionary. By the laws of Ina, if any one fought in an ealdorman's house, or that of any other illustrious wiseman, he was to pay a fine of sixty shillings, and also sixty shillings more for his wite^a. And by the laws of Ælfred, if he fought or even drew forth his weapon in the presence of an archbishop, he was to forfeit one hundred and fifty shillings, if in the presence of a bishop or ealdorman one hundred shillings^b. If any person violated the pledge given to a bishop or an ealdorman, the same laws required that he should pay two pounds, and a similar

^a *Si quis in regis domo pugnet, perdat omnem suam hæreditatem et in regis sit arbitrio, possideat vitam, an non possideat. Si quis in templo pugnet, centum viginti solidis mulctetur. Si quis in senatoris domo (on ealdormannes huse) pugnet, vel in alterius illustris sapientis (other gethungenes witan) sexaginta solidos mulctetur, et alios sexaginta solidos solvat pænæ loco (to wite). Si autem in tributarii domo (on gafol gildan huse) vel coloni (on gebures) pugnet, 30 solidos pænæ loco (to wite) solvat, et colono (gebure) 6 solidos. Et licet in medio campi pugnatum sit, 120 solidos pænæ loco (to wite) solvantur. Si autem in convivio rixati sint, et alii horum patienter id sustineant, solvant alii 30 solidos pænæ loco (to wite). Ll. Inæ. Wilk. 16.*

^b *Si quis coram archiepiscopo pugnet, vel arma stringat, centum quinquaginta solidis emendet. Si coram alio episcopo vel senatore hoc accidat, centum solidis emendet. Ll. Ælfr. 15. Wilk. 38.*

penalty if he broke his mund^a. The laws of Cnute also inflicted the like penalty of two pounds^b. By the laws of Ina, if the peace of a burg, in which an ealdorman resided, was broken, as by tumults, battles, &c. the offender was to pay eighty shillings, but if the residence of the king or a bishop was disturbed, the fine was one hundred and twenty^c. Here it may be observed that the residence of a bishop was more anxiously taken care of than that of an ealdorman, and

^a (Be borhbryce) *De violatione vadimonii. Si quis fidejussionem regi (kyninges borh) factum violaverit, compenset noxiam hanc, sicut ei (i.e. regi) rectum videtur, et violationem fidejussionis (borges bryce) quinque libris bonæ monetæ (mærra peninga). Violationem fidei (borges bryce) archiepiscopo factam vel pacis violationem (mundbyrd) emendet tribus libris. Alterius episcopi vel senatoris fidem, vel pacem violatam (borges bryce oththe his mundbyrd) emendet duabus libris. Ll. Ælfr. 3. Wilk. 35.*

^b *Si quis regis fidejussionem violaverit (borhabrece) emendet hoc 5 libris, si quis archiepiscopi vel nobilis (æthelinges) fidejussionem (borh) violet, compenset hoc 3 libris, si quis episcopi diocesani (leod bisceopes) vel senatoris (ealdormannes) fidejussionem violet, emendet hoc 2 libris. Ll. Cnut. 55. Wilk. 142.*

^c *Urbis violatio (burhbryce) compensari debet centum viginti solidis, ubi regis et episcopi sedes (rice) est. Senatoris (ealdormannes) octoginta solidis: ejusdem conditionis hominis terram possidentis, triginta et quinque solidis. Ex his excusentur. Ll. Ince. 45. Wilk. 22.*

guarded by as high a fine as that of the king, but in the laws of Ælfred the bishop and ealdorman were put upon a footing of equality, for if the peace of a burg belonging to either was violated, the offender was to pay sixty shillings, but if of a twelve hyndman he paid only thirty shillings, and if this was done when the army was marching, or in time of Lent, the compensation was to be doubled ^a.

The law for preservation of the peace in the public assemblies of the people was still more severe, for by the laws of Alfred, if any one fought in the folcgemote in the presence of an ealdorman of the king, he was to pay his proper were, but first of all to the ealdorman one hundred and twenty shillings as his wite, and if he only disturbed the folcgemote by the drawing of weapons, he was to pay no were, but to the ealdorman the same sum for his wite. If the folcgemote was

^a (Be burhbryce) *De urbis violatione. Violatæ pacis in urbe regia* (kyninges burhbryce) *sit 120 solidorum, in archiepiscopali urbe violatio pacis 90 solidorum, alterius episcopi et senatoris* (ealdormannes) *60 solidorum, hominis 1,200 solidorum, 30; 600 solidorum hominis, 15; coloni violatio septi quinque solidorum. Si horum aliquid accidat cum exercitus vagatur* (fyrd), *vel tempore jejunii quadragesimalis compensatio sit duplex* (trybot). *Si quis tempore quadragesimæ velamen sacrum coram populo absque venia deponat, 120 solidis compenset.* Ll. Ælfr. 36. Wilk. 43.

not held by the ealdorman in person, but by his deputy, the offender paid only thirty shillings^a.

As a privilege granted to ealdormen, abbots, and thanes, if a thief fled to any of them he might remain in safety for three days^b. And if an ealdorman permitted a thief to escape, who had surrendered himself to, or been taken by him, or connived at the theft, he was punished by the loss of his shire, unless the king pardoned him^c.

^a *Si quis coram regis senatore (kyninges ealdorman) in concursu plebis pugnet, compenset capitis æstimationem et pœnam prout justum est, et imprimis senatori (ealdormen) 120 solidos pœnæ loco (to wite). Si quis concursum populi (folces ge mote) extractione armorum concitaverit, solvat senatori (ealdormen) 120 solidos pœnæ loco (to wite). Si hoc coram regii senatoris substituto (kyninges ealdormannes gingran) vel regis presbytero accidat, sit pœna 30 solidi. Ll. Ælfr. 34. Wilk. 42.*

^b *Et si ad senatorem (ealdorman), vel abbatem; vel thainum refugiat habeat trium dierum (nihta) spatium. Et si quis illum occidat intra spatium illud, tunc solvat patrocinium (mundbyrde), quod alter prius quæsiuit vel ipsum nonnulli 12 excusent, quod refugium (socne) ejus ignoravit. Et quodcunque refugium (socne) quæsiuerit non sit vita sua dignus (his feores wyrthe) nisi per tot dies quot hic supra diximus: Et si quis eum ultra hoc spatium hospitio excipiat, omnium illorum reus sit ac fur ipse, nisi seipsum excusare possit quod nullam fraudem, et nullum furtum in eo sciverit. Ll. Æthelst. 3. Wilk. 63.*

^c *Qui furem prehenderit, vel si ei captivus reddatur et ille ipsum evadere permittat, vel furtum illud dissimulet, compenset*

If any one was desirous to change his lord and leave his shire, in order to place himself under another lord in a different shire, he was obliged to give information of his intention to the ealdorman in whose shire he had first dwelt^a.

The vast influence enjoyed by some of the ealdormen may be inferred from the history of the perfidious Edric, surnamed Streone, who, though of ignoble^b birth, was in 1007 made by Cnute ealdorman of Mercia, and governed the whole kingdom of England under him for some time, as he had done before under king Æthelred. He was a sort of viceroy, and, in the plenitude of his power, is said to have added small villis to larger ones, and provinces to provinces at his pleasure, because he added the sheriffwick of Wincelcumb,

æstimationem capitis furis illius. Si senator (ealdorman) sit, perdat provinciam suam, (his scire), nisi rex ei condonare velit. Ll. Inæ. 36. Wilk. 20.

^a *De domicilio. (Be boldgetæle). Si quis ex uno domicilio (boldgetæle) in aliud dominum quærere voluit, faciat hoc testimonio aldermanni, quem antea in sua provincia (scire) secutus est (folgode): si hoc eo inscio fecerit, solvat ei, qui ipsum hospitio (to men) excepit 120 solidos pænæ loco (to wite). Quorum dimidium dividat regi in provincia (scire) quam antea secutus est dimidium in ea, in quam nunc venerit. Si aliquid mali fecerit, ubi prius erat, compenset hoc, qui eum tunc in servum (to men) suscepit, et regi 120 solidos mulctæ loco (to wite): Ll. Ælfr. 33. Wilk. 42.*

^b C. S. 136.

which was a separate jurisdiction of itself, to the sheriffwick of Gloucester^a.

The title of jarl, or eorl, is supposed to have been in use upon the Continent long before its introduction into England. It was borrowed from the Danes^b, and our historians mention many eorls in their armies, who combated against the English chieftains. In the account of the proceedings of the Danes, who landed in West Saxony in 871, two eorls are described to have been met in an excursion and defeated by Æthelwulf, an ealdorman^c; and king Æthered and his brother Ælfred fought a great battle at Æscesdune, where they obtained the victory. The Danes were commanded by two kings, Bachsecg and Healfdene, and many eorls, and were drawn up in two divisions, one commanded by the kings, the other by the eorls. Ælfred was stationed

^a *Eo tempore, quo Edric cognomento Streonæ, id est, adquisitor, sub rege primitus Æthelredo et postea aliquamdiu sub Cnut omni Anglorum regno præerat, et quasi subregulus dominabatur in tantum, ut villulas villis, et provincias provinciis prolibito adjungeret, nam vice comitatum de Wincelcumb, quæ per se tunc erat, vice comitatui Gloecestre adjunxit. 1 Mon. 134.*

^b Blot jarls occur under the year 975. 3 *Langebeck*. 34. A jarl is mentioned in 1004. *Ib.* 37. And another in 1248. *Ib.* 97.

^c *C. S.* 80, 81.

opposite the eorls, and five of them, slain in the battle, are mentioned by name^a. In 918, an army landed from Amorica under two eorls, Ohter and Hroald^b. In 938, seven eorls of Anlaf are recorded to have fallen in an engagement^c. Ælfred, in a battle, killed twelve eorls of the pagans^d, and a similar number lost their lives in the reign of Æthelstan, A.D. 924, fighting against the Scotch and their allies^e; and nine fell on the side of the Danes in 867^f.

The town and concubine of an eorl were protected by the 13th and 14th laws of Ethelbirth^g, who died in 616, and this is the first mention I have found in any authentic document of this title. It afterwards occurs in the laws of Ælfred, Edward, Ethelstan, and Edgar. In 656, Wulfer attests a charter to the abbey of Medehamstede,—“ I, Wulfer kying, with kings, and with eorls, “ and with herotogas, and with thegnas, the “ witnesses of my gift^h.” Eorls are also mentioned as witnesses to many other charters and ancient writings.

When pope Agatho, in 675, sent his letters to establish the privileges of the abbey of Mede-

^a C. S. 81.

^b Ib. 105.

^c Ib. 113.

^d *Ingulph.* 495. b.

^e Will. Malms. 27.

^f Will. Malms. 23.

^g Wilk. 3.

^h C. S. 37.

hamstede, he ordained that neither king, bishop, eorl nor any other man should exact any tribute, payment, or service, from it^a. In 775, king Cynewulph liberated the monastery of Wocingas, which had been given to the same abbey, from the king, and from the bishop, and from the eorl, and from all other men^b. From the expressions used in these proceedings, it may be suspected that in the dominions belonging to the Danes, the title of eorl was given to those who had the administration of the government in a district, and that the freedom granted to these abbeys consisted in their being exempted from the ordinary jurisdiction, ecclesiastical or civil, of the bishop and eorl, and from all payments and services, to which lands belonging to lay persons were subjected. The manner in which eorls are mentioned, scarcely permits it to be doubted that they were invested with the government of districts even at this early period, but it is difficult to account for the before-mentioned charter of Wulfer^c, which purports to have been made at an assembly of eorls and thanes, being witnessed by no eorls, but by ealdormen, and persons named without any description. Possibly the title of eorl might then be considered as an innovation,

^a C. S. 42.^b Ib. 62.^c *Ante*, p. 67.

and in order to give popularity to the transaction, the witnesses may have assumed that of ealdormen, in compliance with the prejudices of the people, or they may have been the ealdormen of counties lying in places where the Danish title had not yet been introduced.

In 938, Æthelstan, in the language of poetry, was styled "lord of the eorls"^a, and in 975 Edward was called "chief of the eorls"^b. In the year 1048, the Saxon Chronicle mentions eorls, and from this period, ealdormen are, as I believe, never taken notice of in it. So well established was the title of eorl in 1052, that at a mycel gemote held out of London, all the eorls and best men of the land are described to have attended^c, and William the conqueror usually wore his crown at the three great festivals of the year, whenever he happened to be in England, and about him were then assembled all the "rice men," over all England, archbishops, leodbishops, abbotts and eorls, thanes and knights^d.

That there was originally some difference between ealdormen and eorls, may be suspected from the laws of Wihtred, made in 694, in which it is declared to be the right of the king

^a Eorla drihten. C. S. 112. ^b Eorla calder. Ib. 123.

^c Ib. 168. ^d Ib. 190.

to appoint eorls, ealdormen, sciresmen, and domesmen, mentioning them as distinct officers, and giving to eorls the precedence ^a.

In process of time, however, the title of eorl, as applied to the presiding officer of a shire or county, wholly superseded that of ealdorman, and the latter appellation was conferred only upon the holders of inferior offices in hundreds, cities and burghs, a degradation to which the former was never subjected. This once honourable title must have rapidly declined in public estimation, for the laws of Henry the first, when enumerating the persons bound to attend the county court, places the *ealdormanni* not only after *comites* or earls, but even after *centennarii* or hundredaries, whence we may conclude, that there then remained few ealdormen except those of cities, burghs, or other inferior districts, as is the case at the present day.

It is impossible perhaps, nor is it very important, to trace with precision when and how this change took place. It may however be observed generally, that the title of eorl, having been introduced by the Danes, prevailed at first only in those parts of the country which were under their dominion, but, as their power increased,

^a C. S. 49. *post*, p. 80. note ^a.

it came into more general and extensive use, and remained in the provinces they subdued after they were obliged to relinquish them. At length, in the reign of Cnute, the Danish power being established all over England, the title of ealdorman was so completely superseded that it was nearly lost before the conquest.

For some time after the title of eorl had been introduced, the district over which this officer presided probably retained its ancient name, and continued to be called an ealdordome. Oslac, a favourite of king Edgar, in the year 962 witnessed a grant of privileges made to the abbey of Medeshamstede by the description of "Oslac ealdorman^a," and he possessed himself of an ealdordome in the year 966^b, yet, in 975, he is called the great eorl, "se mæra eorl^c." In the concluding paragraph of the laws promulgated by Edgar "Oslac the eorl" and all the army assembled in the ealdordome, in which the laws were made, were commanded to take care that they should be observed, and it is added, that letters had been written about them to Ælfer and Ægelvine, ealdormen^d.

^a C. S. 120.^b Ib. 121.^c Ib. 123.^d *Tunc curet Oslac comes (eorl), et exercitus (here), qui in hoc comitatu (ealdordome) commoratur, ut hoc observatur*

Both titles, however, were in use at the same time. In 992, the king gave the command of a fleet to Ealfric ealdorman, and Thorode eorl, and two bishops^a. In 1009, Brithric, the brother of Eadric the ealdorman, accused Wulnoth the father of Godwin the eorl^b. These instances may be accounted for from the Saxons giving the denomination of ealdormen to their officers, while the Danes retained that of eorl, which was in common use in their own country. In consequence, during the contests between these two parties, ealdormen on one side were frequently opposed to eorls on the other.

Before the arrival of the Saxons, the word *comes*, which afterwards became the Latin name

in Dei gloriam, &c. et multæ literæ de his rebus conscribantur ac mittantur ad Ælferum et Ægelvinum senatores (Ælfere ealdormen ge to Ægelwine ealdormen) et illi quorsum consultum fuerit pauperibus et indigis. Wilk. 82. In this passage, from eorl Oslac's name being connected with the army of the earldordom, in which the king had granted the laws, we might infer that, at this period, the duty of an eorl was of a military nature, and the more so, as the care of seeing the laws observed was delegated to him, while the contents of them had been sent by letter to the ealdormen.

^a C. S. 126.

^b 1009. *Brithricus Eadric ducis (ealdormannes) frater accusaret apud regem Wulnothum ministrum (eild) Suth Saxonem Godwini comitis (eorles) patrem.* C. S. 137.

for an ealdorman or eorl, had been known here. For Constantine, who made great alterations in the government of the military force of Rome, placed over his troops in Britain three commanders; 1. the *comes littoris Saxonici per Britanniam*, whose district extended over the south and east coasts; 2. the *comes Britanniarum*, who presided over the forces in the interior; and 3. the *dux Britanniarum*, who commanded on the northern frontiers^a. The appellation of *comites* was given to certain counsellors, who, from the time of Augustus downwards, had assisted the Roman emperors with their advice, and were stiled *comites Augustales*, or *comites Augusti*, companions of the emperor, from their constant attendance on his person. When any of them left the imperial court for the purpose of taking upon himself a government, he was no longer called *comes Augustalis*, but *comes* of the place over which he was to preside, and he managed its military, as well as civil concerns. In like manner, after the Romans had abandoned Britain, the Saxons divided the counties they conquered into districts, over which they placed ealdormen, each being occasionally described by

^a 1 Henry. 240.

the addition of the name of the district which he governed^a.

The word *comes*, when applied to an officer, never was in English translated count, but always ealdorman, or eorl, notwithstanding which the district which he governed, denominated in Latin *comitatus*, was, conformably to the French and other languages on the Continent, rendered “county.” This word is still in common use among us, and used synonymously with the more ancient word “shire,” or “scire.”

Sometimes the ealdorman, or eorl, was denominated in the Latin language *consul*^b, and his

^a 860. *Osric Hamtunensium comes cum suis, et Ethevulfus comes Bearrocensibus viriliter obviaverunt, &c. Sim. Dun. 140.*

979. *Comes orientalium Anglorum Ukillus, &c.—filia Richardi comitis Normanniæ, filii Gulielmi. Will. Malm. 35. b.*

1013. *Ethelmarus Domnaniæ comes. Sim. Dun. 170.*

Cui comes Lyndeseye Cuthbertus nomine. Bromt. 880.

1058. *Strenuus comes Leicestræ Algarus. Ingulph. 515.*

Rogerus Herfordensis comes. Ib. 512. Radulphus comes Southfolke. Ib.

Comite Godwino, et Leofrico comite Cestriæ. Bromton. 938.

To a royal charter granted in 1081, was signed *Ego Hugo comes Cestrensis. 1 Mon. 289.*

^b In Domesday-book,—*et consul Eustachius dedit sc̃to Martino. 2 D. 20. b.*

Et ad opus consul x. l̃ ad num̃. 2 D. 119.

Bromton mentions *quidam comes magnificus Ælferus*

shire *consulatus*^a. These words were frequently used by writers under the first race of Norman kings, but were laid aside about the time of Stephen^b.

Among the Saxons, as among the Romans^c, the word *comes* had not originally any confined appropriated sense, but signified a companion generally. It occurs in Bede's Ecclesiastical History several times, and in no one place is it rendered in the Saxon translation by ealdorman or eorl, but always by the word *gesith*^d or *gesith-nomine*, and afterwards, under the year 981, calls him *Ælferus consul*, pp. 875, 877, 878, 879; and we meet with *Swanus consul filius Godwini*, p. 939. Tosti also is said to be *consul* of the *Northumbrenses*, p. 948. Hoveden says, *Ludecen rex Merce et quinque consules cum eo occisi sunt*. p. 236.

^a *Ut consulatus testat sine jussu regis.* 2 D. 14.

Ut consulat. testat. Ib. 91.

^b 3 Seld. 669.

^c *Socius atque comes tum honoris, tum etiam calamitatis. Cicero pro Sylla. Magnaque et comitum æmulatio, quibus primus apud principem suum locus et principum, cui plurimi et acerrimi comites. Tac. de mor. Germ. 13.*

^d *Erat quippe in proximo comes quidam. Thæs sum gesith thær on neaweste. Bed. Hist. Eccl. lib. 4. c. 10. Ab eodem comite. Tham ylcan gesithe. Ib. 1. 5. c. 4. Domum comitis. Gesithes hus. Ib. Rogavit comes eum. Bæd se gesith hine, &c. Ib.*

man^a, which we shall have occasion to mention again in a future chapter. It is to be observed, that Bede uses the word *comites* to denote the attendants of the daughter of a king^b, and applies *comes* to a bishop under very particular circumstances^c. Æthelstan is said, by William of Malmsbury, to have been *laicus jocundus, et comes*^d, and Godwin *ejusque comites* are mentioned^e. In the same sense it occurs in Hoveden, who wrote in the reign of Richard the first^f, and, in like manner, the word *comitatus* signified sometimes a company of soldiers, or a number of companions or followers, without reference to territory or district^g. But, in its more confined

^a *Ut conjugem comitis, &c.* Dæt he anes gesithmannes wif, &c. *Bed. Hist. Ecc. lib. 5. c. 4.* *Puerum comitis.* Anes gesithmannes cniht. *Ib. l. 5. c. 5.*

^b When the daughter of the king of Kent was sent to Ædwin king of Northumberland, to be married to him, bishop Paulinus, who accompanied her, took care by daily exhortation, &c. that *eam et comites ejus* should not be polluted by the company of pagans. Translated into “tha fæmnan and hire geferan.” *Ib. l. 2. c. 9.*

^c Alluding to bishop Paulinus, *sic cum præfata virgine—quasi comes copulæ carnalis venit.* Swa he wære gesith (licumlicre). *Ib.*

^d *Will. Malm. 27. b.* ^e *Ib. 46.* ^f *Hoved. 408. b.*

^g *Hujus ergo comitatui rex sociavit Ulfridum, utque illum secum Romam perduceret, jussit.* *Bed. Hist. Eccl. lib. 5. c. 19.*

sense, it was made descriptive of the high rank of the person who bore it, and pointed him out as the companion and brother warrior of the king ^a. Of this description may have been the *comes* called Puch, mentioned by Bede, who lived not far from his monastery and was the owner of an adjoining vill; he notices also another *comes*, of the name of Addi, who had a church to be consecrated. The former probably was the *comes* of the same name mentioned in Dugdale, who had a manor at South Burton, and gave with his daughter when made a nun at Beverley, the manor of Walkington, and died in A. D. 742. Addi is described by Dugdale as a *comes* living at North Burton, and having given to the church of Beverley, not only North Burton, but the advowson of the church there ^b. Sir Roger Owen

^a *Rex Merciorum, Burhred appellatus, et omnes optimates, consilium habuit cum suis comitibus, et commilitionibus, et omni populo sibi subjecto, &c. Sim. Dun. 123.*

Æthelric subregulus atque comes Ethelbaldi. 1 Mon. 121.

Tertio vero die quo ibi advenerunt, inimici Anglorum, comites eorum, cum magna multitudine in parte illius fluminis equitaverunt. Sim. Dun. 124.

^b *Villa erat comitis cujusdam qui vocabatur puch non longe a monasterio nostro, &c. Bed. Hist. Eccl. lib. 5. c. 4. Thæs sumes gesithes tun se wæs puh haten noht fær urum mýnstre, &c. Ib.*

Ad dedicandum ecclesiam comitis vocabulo Addi, &c. Gesithes cyricean to halgianne. Ib. l. 5. c. 5.

Puch comes quidam, habens manerium apud Australem

mentions that, in the year 605, Hocca comes, and Grapho comes, were witnesses to a grant made by king Ethelbert to the church of St. Austin in Canterbury ^a, and Ingulphus has preserved a Latin charter of king Æthelbald in A.D. 715 to the abbey of Croyland, to which were witnesses Egga comes Lincoln, and Leucitus comes Leicestriae ^b. Whether these were ealdormen or eorls, we are not informed, but it seems that by imperceptible degrees comes, after Cnute succeeded to the crown ^c, became the ascertained settled Latin appellation of every ealdorman of a shire or eorl, but generally with the addition of the name of the county or district over which he presided. This continued till the reign of Stephen, who created titular eorls without giving them any districts to command, but Henry the second, at the commencement of his reign, deprived these *pseudo comites*, as Matthew Paris calls them, of their dignities.

Because the word *comitatus* has been for several ages confined to the designation of certain districts

Burton, &c. Addi comes de Boreali Burton dedit Borealem Burton cum ejusdem ecclesiæ advocacione æcclesiæ de Beverlaco, &c. 1 Mon. 169.

^a MSS. Harl. 6606. 3. Sir R. Owen. 713.

^b Ingulph. 485.

^c 3. Seld. 641.

into which England is now divided, we are not to presume that before, or for some time after the conquest, the boundaries of the provinces allotted to eorls were always co-extensive with them. In some instances their power extended over many shires ^a, and in others was confined to a part of one shire only ^b, but the territory governed by a

^a Canute divided England into four parts—*Westsexoniam sibi, Estangliam Turkello comiti, Merciam Edrico perfido duci, Northumbriam Eirico comiti.* Edric was appointed ealdorman of Mercia in 1007, and in the Saxon Chronicle is always so denominated. *Hoveden.* 250.

Audiens autem comes Godwinus talia in comitatu suo geri grave tulit, et de Suthsaxia et Westsaxia, et filius suus, primo genitus, Swanus de comitatu suo Barroccensi et Glovernensi, Herefordensi et Somersetensi; alterque filius suus Haraldus de comitatu suo, scilicet, de Estsaxonia, Estanglia, Huntingdonia, et Cantebrigia castrametati sunt in comitatu Glovernæ, regi per legatos mandantes ut prædictum Eustachium cum suis et Normannos, et Bononienses, qui castrum Doro-bernie tenebant, eis redderent. *Brom.* 942. *Hoveden* gives the same enumeration of the districts included in the several counties of Godwin and his sons, except that he adds Kent to those of Godwin. *Hoved.* 253. Tostan, another son, was earl of Northumberland, and Gurth, killed in the battle at Hastings, and Leofwine, were also earls.—Alveve, a sister of Harold, is mentioned to have some land. *D.* 144. b. And Harold was also butler (*pincerna*) to Edward the confessor. *Bromton.* 944.

^b Alan received from William the conqueror, *honorem et comitatum comitis Edwini in Eborakshira (qui modo vocatur Richmondshire), et qui ad tunc extitit geldable, sed postea regum privilegio in libertatem est mutatus.* 1 *Mon.* 877.

comes, whether large or small, was denominated his *comitatus*, or eorldom. In 952, the present six northern counties, Northumberland, Durham, Yorkshire, Cumberland, Westmorland, and Lancashire, as far south as the Ribble, composed the *comitatus* of the eorl of Northumberland.

When the present division of shires was introduced is not perfectly ascertained, but, at the time of the conquest, it appears from Domesday-book and other records, that the names and boundaries of most of them were nearly the same as at the present day. It is probable that William, after the conquest, upon the destruction or flight of most of the eorls, embraced the opportunity of dividing those eorldoms, which had included many shires, into smaller portions, and rewarding his followers by appointing them eorls over single shires, or in some instances over two or three only.

The eorl derived his authority, as the ealdorman also had done, from the king, and was nominated by him. In the year 694 Wihtred, at a council, publicly asserted this right^a. In 1048, Odo was appointed eorl of Devonshire, and of the people of Somerset, and Dorset, and

^a *Regum est constituere comites, duces, vice-comites, et judices* (eorlas & ealdarmen, sciri-revan & domesmen). C. S. 49.

of Wales, and to Ælfgar, the son of eorl Leofric, was granted the eorldom which Harold had possessed before ^a. And in 1053, upon the death of eorl Godwin, Harold his son succeeded to his eorldom, and the eorldom of East Saxony, which Harold had, was given to Ælfgar ^b. Here we find Ælfgar succeeding to the dignities of Harold upon two occasions, at the nomination of the crown, but in 1057, upon the death of his father Leofric, Ælfgar succeeded to his eorldom of Leicester ^c. In 1056 Tosti, the brother of Harold, was appointed by the crown to succeed to the eorldom of Yorkshire on the death of Siward, earl of Northumberland, and to Walden, the son of Siward, were given the counties of Northampton and Huntingdon, with the remainder of his father's lands ^d. In 1067 William, the son of Osbearn, had been appointed eorl of Hereford ^e, and in 1075 William the conqueror gave to Ralph ^f, whom he made eorl

^a C. S. 165. ^b C. S. 169. *Ingulph.* 510. ^c C. S. 169.

^d *Anno Domini 1056. Strenuus comes Northumbrorum Siwardus obiit, et sepultus est in clastro monasterij sanctæ Mariæ extra muros ejus urbis, quod ipse construxerat. Comitatus, autem, ejus Eboracæ Tostio fratri comitis Haroldi datus est; Northamptoniæ vero, ac Huntingdoniæ comitatus cum cæteris terris suis, inclyto comiti Waldeno filio et hæredi suo sunt donati. Ingulph. 510. b.*

^e *Diceto.* 482.

^f *Hoved.* 258. C. S. 182.

of Suffolk and Norfolk (or as Bromton says, of East Anglia ^a) the daughter of the said William to be his wife.

A strong proof that the power of appointing eorls was the undisputed prerogative of the crown in peaceable times, occurred in the year 1064. The Northumbrians, harrassed by the oppressions and cruelty of their eorl Tosti, drove him out of the country, and sent for Morcar, a son of Ælfgar, who placed himself at their head, and collecting forces in Nottinghamshire, Derbyshire, and Lincolnshire, marched to Hampshire, where his brother Edwin joined him with the men of his eorldom. Eorl Harold was sent against them, and through him they made it their request to the king that they might be permitted to have Morcar for their eorl, which was granted, Harold himself going to them with the answer, confirming it by giving his hand, and renewing the laws of king Cnute ^b.

In the reign of king John, and for some time before, to complete the investiture of an eorl it was necessary that the king should gird him with the sword of his county ^c, but without the per-

^a Brom. 974.

^b C. S. 171.

^c Mat. Paris. A. 1189. Ric. 1.

Eodem die coronationis suæ Johannes rex accinxit Wilhelmum Marescallum gladio comitatus de Striguil et Gaufridum

formance of that ceremony he might assume the title, and take upon himself the administration of its affairs. What ceremonies were in use upon similar occasions, before the conquest, I have not been able to discover.

The high dignity and official situation of an eorl was accessible to the lowest subject. In the constitutions of Ethelred, made in the year 1014, it is expressly declared that the law permitted a thræl, or person of servile condition, to become a thane, and a ceorl or husbandman to be made an eorl^a. And, if a thræl could be raised above a ceorl and become a thane, it seems that there was nothing to prevent him from being exalted to the title of eorl, so that even slaves might aspire to this highly honourable situation.

The appointment of an eorl did not merely invest him with the dignity and power belonging to his office, but advanced him into a higher degree of rank in the state; he was raised above

filium Petri gladio comitatus de Essex, qui licet antea vocati essent comites, et administrationem suorum comitatuum habuissent, tamen non erant accincti gladio comitatus; et ipsi illa die servierunt ad mensam regis accincti gladiis. Hoveden. 451.

^a *Juste etiam nos sapientes diximus quod Dei providentia servus (thræl) fiat thanus (thegone) et colonus (ceorl) fiat comes (eorle), cantor sacerdos, et scriba episcopus. Lib. Const. Wilk. 102.*

that of a thane^a, and had superior privileges allotted to him. His household was conducted with great state and splendour, his attendants were numerous, and the denominations of his officers and servants borrowed from the royal palace. Of course many thanes were ranked among them. When Edward the confessor, in 1048, assembled a witenagemot in London, in order to put an end to the disputes with eorl Godwin, he required that all the thanes of the eorls Godwin, and Harold his son, should be given up to him^b. The thanes here alluded to may not have served about their persons or households, but, from the possession of lands or socs within their respective eorldordoms or counties, have acknowledged and followed them as their feudal lords and military leaders. It seems, however, that the title of thanes was given to the attendants of eorls, for in Domesday-book mention is made of manors, which had been held respectively

^a *Attamen si thanus comes fiat, tunc jure comitis in posterum sit dignus. Jud. Civ. Lund. Wilk. 72.*

^b 1048. *Postulavit etiam rex, omnes ministros (thegna), quos comites (sc. Godwin, et Harold) prius habuere, qui eos omnes in manus illi dedere.*—C. S. 164. From Turner's Hist. of the Anglo-Saxons, vol. 3, p. 321, note, it appears that the thanes of Harold, "ealle tha thægnas the wæron Haroldes eorles his suna," &c. were obliged to find pledges to the king for their conduct.

by Achi ^a and Turbertus ^b, thanes of eorl Harold, and a manor was held by Merevin, a thane of eorl Odo, ^c. We have also the names of five thanes of eorl Edwin ^d, and one of eorl Leuvin ^e. Hoveden mentions the chancellor of the eorl of Moriton ^f.

The rank of an eorl is alluded to in the Saxon laws as the highest, and that of a ceorl as the lowest of the freemen of the realm ^g. In a law of Æthelred the eorl is mentioned before the bishop, but they are treated as of equal dignity.

^a *Hoc man. tenuit Achi. teignus heraldi (com).* D. 142.

^b *Turbertus tein. heraldi com. tenuit Estone.* D. 164.

^c *Merevin tenuit teinus Odonis (comitis), et non poterat recedere sine licentia domini.* D. 184. b.

^d *Has trās tenuer. 5 teini Edvini com. Erniet, Aluvin Bricfredus, Frane, Aluuold. nec poterant recedere a dño manerii. Modo teñ has trās IIII milites de Ursone vicecomite.* D. 172.

^e *Hoc man. tenuit Wilaf teignus Leuuiini comitis et vende pot.* D. 145.

^f *P. 707.*

^g *Hoc est consilium quod episcopi et præfecti (gerefan), qui ad curiam Lundinensem (to Lunden byrig) pertinebant, edixerunt, et juramentis confirmaverunt in nostris fæderatorum soldatiis (on urum fryth gegyldum) tam comites, quam coloni (eorlisce, ge ceorlisce) præter jura illa, quæ ad Greateanleam, et ad Exoniam et ad Thunresfeldam constituta erant.* Jud. Civ. Lund. Wilk. 65.

A thane appears to be inferior to both ^a. In other respects the Saxon laws protected the rights of eorls, and by the magnitude of the penalties to be paid for their infringement, it is evident that their rank was highly exalted in the estimation of the people ^b.

Heriots are supposed to be of Danish origin. The Saxon word "heregeate," derived from "here" an army, and "geotan" to render, may signify the habiliments of war, which were delivered up to the lord on the death of the vassal who could no longer use them, to be put into the hands of his successor for the defence of the country. Heregeates, or heriots ^c, seem to have been introduced by the 69th law of Cnute, written in the Saxon language, by which those of eorls and thanes of various descriptions were fixed, according to their respective dignities, in the different parts of the kingdom. That of an

^a *Et pro regis causa (spæce) sex dimidiæ marcæ pacti loco tradantur, et pro comitis (eorles) ac episcopi 12 oræ pactum, et pro quolibet thano 6 oræ pactum. Ll. Æthelr. Wilk. 118.*

^b *Si quis in comitis villa aliquem occiderit, XII solidos compenset. Ll. Æthelb. 13. Wilk. 3.*

Si cum comitis pocillatrice quis concubuerit, XII solidos compenset. Ib.

^c Bl. Com. 423.

eorl was eight horses, four saddled and four without saddles, four helmets and four coats of mail^a, eight spears and as many shields, four swords, and 200 mancusas of gold. That of a thane of the king, and nearest to him, is stated next in order, and consisted of four horses, two saddled and two not saddled, and two swords and four spears, and as many shields, helmets, and coats of mail, and 50 mancusas of gold. The heriot of a middle thane, in West Saxony, was only one horse with its habiliments and his arms, or his fine for the pillory, but in Mercia and East Anglia, two pounds. Among the Danes, who it seems were to be favoured, the heriot of a king's thane, having his soc, was fixed at four pounds, unless *he was further known to the king*, and then it was two horses, one saddled, the other not, and a sword and two spears, and two shields and 50 mancusas of gold, *and he who had less, and was more lowly connected*, was to pay two pounds^b. By the 71st law the widow

^a The Saxon word is "byrnan," translated by the Latin word *thorax*, or *lorica*, but Qu. whether it means a covering for the whole, or a part only of the body?

^b *Et sint armamenta (heregeata) prouti dignitati convenit, comitis (eorles) prout ad eum pertinet, nempe 8 equi, 4 ephippiati, et 4 absque ephippiis, et 4 galeæ, et 4 loriceæ, et 8 hastæ ac totidem scuta, et 4 enses, et ducentæ mancusæ auri. Et*

was to present the heriot within a year after her husband's death^a.

Reliefs, probably introduced not long before the Norman conquest, were fines paid to the king or other lords, by those who succeeded to the inheritance of lands held under them, to redeem their estates and obtain possession of them. They were different from heriots, for heriots were

postea regii thani armamentum (heregeata) qui ei proximus sit (we him nihste) 4 equi, 2 ephippiati, et 2 absque ephippiis, et 2 enses, et 4 hastæ et totidem scuta et galeæ et loricæ, et 50 mancusæ auri. Et inferioris conditionis (medemræ) thani equus cum ornamentis ejus et armis, vel ejus mulcta obstricti colli (his halsfange) in Saxonia occidua, et in Mercia 2 libra, et in Anglia Orientali duæ libræ. Et regii thani armamentum (heregeata) apud Danos, qui suam immunitatem (his socne) habet, 4 libræ, et si regi ulterius notus sit (gif he to tham Kyningc furthor cyththe hæbbe) duo equi, unus ephippiatus, et alter absque ephippio, et ensis et duæ hastæ et duo scuta, et 50 mancusæ auri, et qui minus habuerit, et minus potens fuerit, (and se the læsse hæbbe and læsse mage) duæ libræ.—Ll. Cnuti. 69. Wilk. 144. In the Howard Manuscript that part of this law, which regulates heriots among the Danes, mentions only two ranks of thanes as in the rest of England, those having their own socs, and those of inferior condition, omitting the words "*quatuor libræ, et si regi ulterius notus sit.*" But, as the 14th law of Henry the first, evidently taken from this law and nearly copied from it, contains the disputed words, we may presume the text given by Wilkins is genuine.

^a *Quælibet etiam vidua præstet armamentum (heregeata) intra annum, nisi prius mulctæ expers aliquid opportune fecerit. Wilk. 145.*

established for the general good of the country, reliefs for the private emolument of the lord. The Normans, not having a Latin word to denote a heriot, applied to it the word *relevium* or *relevatio*, and in the monkish writers and historians, as well as in Domesday-book, heriots and reliefs are frequently confounded with each other. In the laws of William the conqueror, written in French, the relief of an eorl, which belonged to the king, was, nearly in conformity to the before-mentioned law of Cnute, eight horses saddled and bridled, four coats of mail, four helmets, four shields, four spears, and four swords, besides four hunting horses and palfreys bridled and saddled^a, and the relief of a baron bore nearly the same relation to it as that of the king's thane of highest rank in the law of Cnute, consisting of only one half of the number of the different articles^b. By these laws the provisions of Cnute respecting heriots seem to have been superseded,

^a 22. *De relevio comitis, quod ad regem pertinet, VIII equi epphiati et frænis ornati, IV loricae, et IV galeae, et IV scuta, et IV hastae, et IV enses, alii caeteri IV veredi et palfredi cum frænis et capistris.* Wilk. 223.

^b 23. *De relevio baronis IV equi cum sellis et frænis ornati, et loricae II, et II galeae et scuta II, et II hastae, et II enses, et alii caeteri II unus veredus, et unus palfredus cum fræno et capistro.* Wilk. 223.

notwithstanding which some lands remained obnoxious to the payment of both heriots and reliefs, but after the Norman conquest the latter were payable generally, and by the law of the land, the former only in some particular places, and by custom ^a.

The laws of Henry the first are written in Latin, and the 14th chapter, which treats of reliefs, is evidently framed from the Saxon law of Cnute before mentioned, though not an exact translation of it ^b, with the view to apply its pro-

^a Sir Roger Owen, who lived in the reign of James the first, states that heriots are payable only by custom, and that some freehold lands he held in Shropshire rendered, as a heriot upon the death of the tenant, an arrow. *Harl. MSS.* 6606. 808 & 808. b.

^b 14. *De relevationibus.*—Sint relevationes singulorum sicut modus sit, comitis VIII equi, quatuor sellati, et quatuor sine sella, et galeæ IV, et loricae IV, cum VIII lanceis, et totidem scutis, et gladii IV et centum mancæ auri. Postea thayni regis, qui ei proximus sit, quatuor equi, duo sellati, et duo non sellati, et duo gladii, et quatuor lanceæ, et totidem scuta et galea cum lorica, et L mancæ auri, et mediocris thayni equus cum apparatu suo et arma ejus, et suus halfhang in Westsex, in Mercenis duæ libræ, et thayni regis relevatio cum Dacis, qui socam suam habeant III libræ, et si apud regem promotiorem justitiam habeat duo equi, unus cum sella, alius sine sella, unus gladius, et duæ lanceæ, et totidem scuta, et L mancæ auri, et qui minus potest det duas libras, et ubi bunda manserit sine calumpnia, sint uxor et pueri in eodem sine querela, et si accusatus fuerit dum vixerit, in aliquo respondeant

visions respecting heriots to reliefs, which were of recent introduction.

Reliefs continued to be paid in horses and arms till the assize of arms passed, in the 27th year of Henry the second, by which every man's armour was required to be preserved for his heir, and consequently reliefs were afterwards payable in money. By Magna Charta, c. 2. the relief of an earl was fixed at one hundred pounds.

Upon the death of an eorl we have no reason to presume that the precise rank and privileges he had enjoyed were continued to his wife and children, but we find that great respect was paid by the Saxons to the descendents of illustrious families. The Chronicle, under the year 501, records the death of a Briton, an "æthelne monnan^a." The laws of Ælfred mention the "æthelboran wifman," or husband, noble by birth^b, and in the Saxon translation of the bible in Prov. 31. "æthelboran" is put for *nobiliter natus*^c. To the descendents of persons of high

hæredes ejus sicut ille ipse faceret, si viveret, et persolvat omnis vidua relevationem suam intra duodecim menses sine forisfactura, si non possit antea. Ll. Hen. 1. c. 14. Wilk. 244.

^a C. S. 56. See 3. Gale. 395, 417, 418.

^b Ll. 10. Wilk. 37.

^c Lye's Saxon Dict. *in voce*.

rank may perhaps have been applied the appellation of noblemen, (*æthelummannum*), who, with the wites, are recorded to have been assembled at a great synod in the reign of *Æthelstan*^a.

That superiority of birth was attended with some degree of personal dignity, appears from the Canons of Edgar, which required that no (*forth boren*) high-born priest, should deprive one who was less-born (*laes boren*^b.) And it is not impossible that there might have been a general rule established by laws, which are not now in existence, that the children of *eorls* and other public officers, should be distinguished by certain privileges attached to their respective ranks. In the treaty between Edward and Guthrum, it was expressly stipulated that, if any person was killed, compensation should be made according to his birth^c. If the descendents of an *eorl* succeeded

^a *Ll. Æthelst. ad finem.* Wilk. 61.

^b Wilk. 83. The word “*forth*” signifies sometimes before, or beyond, hence “*forthmest*,” or “*foremost*,” that is, one who is advanced before others, as “*forthweaxan*,” or “*forweaxan*,” to grow very much. So here “*forthboren*” may mean to be born of higher rank, or advanced beyond others. If the signification of the word could admit of dispute, the being put in opposition to “*laesboren*” shews it means a priest, who was of distinguished birth.

^c *Si quis occidatur, compensetur juxta nativitatem suam.* Wilk. 53.

to his rank, though not his office, we may easily explain the first law of Hlothare and Eadric, which provided, that if any man's slave killed an eorlcundne man, he should pay three hundred shillings, and his lord should give up the slayer, and add the value of three men^a. The expression "eorlcundne man," may here signify an eorl, as ceorlisce man is used frequently to signify a ceorl. In the laws of Æthelbirt an "eorlcundne" widow of the highest rank is mentioned, and if we may apply this description to the widow of an eorl, it shews that the word eorlcundne was not confined solely to persons descended from eorls^b. Her mundbrice was fixed at fifty shillings, and there are three gradations of inferior widows mentioned in the same law, whose mundbrices were respectively twenty, twelve, and six shillings^c.

The wife of an eorl was called in Latin *comi-*

^a *Si cujusquam servus nobilem (esne eorlcundne mannan) occiderit, tunc sit 300 solidorum compensatio, Dominus homicidam illum tradat, et huic addat trium hominum valorem.* Wilk. 7.

^b "Godcunde" was used for godly or divine, and in the Saxon Chronicle it is applied to ecclesiastics, and to fire. C. S. 24, 44.

^c *Patrocinium violatum potioris viduæ, nobilis familiæ (betstan eorlcundne widuwan) L solidis emendetur; secundariæ XX solidis; terciæ XII solidis; quartæ VI solidis.* Wilk. 7.

tissa ^a, but her Saxon appellation I have not been so fortunate as to meet with ; she is described simply as “ the wife of an eorl ” in laws which have been already quoted.

In general the office of an eorl was not hereditary. When Ælfred reproved his eorls for their ignorance, he reminded them that they held their offices not by inheritance, but by the gift of God *and him* ^b. So when Harold succeeded to the possessions of his father, his own dignities in Essex and East Anglia were given to Algar, who dying, left two sons Edwin and Morcar, mentioned by Ingulphus ^c, and in the *Monasticon* ^d, as “ *postea comitibus*,” plainly intimating that by the death of Algar they were not so. Edwin, it may be inferred, was afterwards eorl of Hampshire ^e, and Morcar, we have just shewn, was appointed eorl of Northumberland. Upon the deaths of these noblemen their sister Lucia became countess of their paternal property, and

^a *Judita comitissa h̄t VII lib̄ de exitibus ej̄d burgi*, i. e. Northampton. D. 219. In Leicestershire one title is *Terra Godevæ comitissæ*, who was the widow of Leofric earl of Mercia. D. 231. b. And another title, *Terra Alveve comitissæ*, who was the widow of earl Morcar. Ib. In Dorsetshire is *Terra comitissæ Boloniens'*, D. 85, who was the wife of *Comes Eustachius*. Ib.

^b *A Dei dono et meo sapientium ministeriæ et gradus usurpatis*. *Asser. de gestibus Ælfr.* 21.

^c *Ingulph.* 511.

^d 1 *Mon.* 304.

^e *C. S.* 171.

married Ivo de Taylbois, but having no children by him, she afterwards, in the reign of Henry the first, became the wife of Roger, son of Gerold Romara. By him she had a son, William, who after her death was eorl of the lands she inherited from her father, and the county of Lincoln also ^a. From this short history we learn that persons of the rank of eorls might be distinguished by the enjoyment of the privileges of their order, over not only the districts commonly distinguished by the appellation of eorldoms, but over their own paternal lands, and the instance of Lucia is the more remarkable, because she transmitted her rights, with the title of eorl, to her descendent. We are not however authorized to presume that the succession in her family took place in any instance without the concurrence of the king. It may also be remarked, that during the lifetime of her father she had not the title of countess, for it is expressly stated in the *Monasticon*,

^a Algar had two sons, Edwin and Morcar, *postea comites, et filiam nomine Luciam postea comitissa*—on their deaths *obtinuitque Lucia soror eorum terras paternas, quæ nupta est primo Ivoni Taylbois, e quæ nullam suscepit sobolem, tempore Willielmi Conquestoris et Willielmi Rufi. Lucia comitissa, tempore Henrici primi, nupta Rogero filio Geroldi Romara, peperit filium nomine Willielmum postea comitem de terris paternis et Lincoln comitatus*, and she married to her third husband, Ranulf, earl of Chester. 1 *Mon.* 304.

as quoted before, that she *afterwards* had it, that is, after the deaths of Edwin and Morcar, her brothers.

Spelman asserts, that the office of *comes* was not hereditary in any part of Europe when the Saxons first landed in England^a, and Selden points out the eorldom to which Algar succeeded on the death of his father Leofric, “as a special title, government and honour, among the Saxons so singular, that it was hereditary with a very long pedigree till the conquest, from king Ethelbald’s time above 300 years,” taking for granted that, even in this noble family, there was no hereditary right of succession.

In other instances it might be advantageous to the public, and increase the security of the prince, not to change the stock so long as there was an heir of age to succeed to the office. In the year 999, when Waltheof eorl of Northumberland was become old and unable to fight against the Scotch, and had shut himself up in Bebbaburh, his eorldom was given by king Ethelred to Uchtred his son, who had greatly distinguished himself, with the eorldom also of the Yorkists^b. And when Siward, eorl of

^b Of Feuds. 13.

^c *Dedit ei comitatum patris sui, adjungens etiam Eboracensium comitatum.* Sim. Dun. 79, 80.

Northumberland, who had married Elfreda, daughter of eorl Aldred, died, the eorldom was given to Tosti, son of Godwin, on account of the extreme youth of Siward's son Waltheof^a. Tosti was succeeded by Morcar, and then by Coxo, who each seem to have held at pleasure. Hoveden says, it was then given by William the conqueror to Cospatrick, whose mother was daughter of Uchtred, but he rebelling, William granted the eorldom to Waltheof, the son of Siward by the daughter of eorl Aldred, on account of whose minority Tosti had been appointed^b.

Spelman supposes that eorls, among the Saxons, were merely officers appointed and removed at the pleasure of the king, and that this continued to be their situation until the conquest, notwithstanding they were made hereditary in France by Hugh Capet. He further supposes, that William made no alteration as to the English eorls whom he found in office, and they continued to be dependent upon his will, but where he nominated any French or Normans, he, according to the then custom of their own country, granted them offices for life. Ælfred's

^a *Et quia Waltef filius suus (sc. Siwardi) quem progenuerat adhuc parvulus erat, datus est comitatus ejus Tosti filio Godwini consulis. Brom. 946.*

^b *Hoveden. 243, 243. b. 259, 260. b.*

severe reproach to his eorls for their ignorance, affords a decisive proof that with the king rested the power to remove them, for his command was in the alternative that they should either give up their offices, or study in order to make themselves capable to perform the duties of them, and they obeyed him by diligently applying to study, for fear that if they did not they should be deprived of their places ^a.

The right of the king to deprive an eorl of his office was often successfully resisted, and the king compelled to enter into treaties with, and submit to terms imposed upon him by his rebellious subjects. It may be doubted whether the king could either appoint or dismiss an eorl without the consent of his wites.

We have before described the duties of an eorl in stating those of the ealdorman. They were, probably, not originally confined to the adminis-

^a *Quapropter aut terrenarum potestatum ministeria, quæ habetis illico dimittatis, aut sapientiæ studiis multo devotius de cætero ut studeatis jubeo. Quibus auditis verbis, perterriti, veluti pro maxima vindicta correcti, comites et præpositi ad æquitalis discendæ studium totis viribus se vertere nitebantur, ita ut mirum in modum illiterati ab infantia comites pene omnes, præpositi, ac ministri literatoricæ arti studerent, malentes insuetam disciplinam, quam laboriosè, discere, quam potestatum ministeria dimittere. Asser. de gestibus Ælfr. 21.*

tration of the civil concerns of his eorldom ^a, but though its military affairs might afterwards be frequently separated and entrusted to another officer, yet some eorls were, through fear or favour, invested by the king with the military command of their districts, and the whole power of their provinces. Under an eorl were holds ^b, or inferior officers, to whom was delegated the management of his armies in the field or upon expeditions. It is unnecessary to produce instances of eorls acting as generals at the head of armies by land, for they may be found in every historian. Their military services were also extended to the sea. In 1052 eorls Ralph and Odda commanded a fleet, and their ships were afterwards ordered to return to London, and other eorls set over them ^c. And in the same year the king, accompanied by all the eorls, sailed from London with fifty ships against eorls Godwin and Harold, who had come there with a hostile fleet ^d.

Eorls derived considerable emoluments from their official situations, which, in the *Textus*

^a *Defecerunt hic reges Northanhymbrorum et deinceps ista provincia administrata est per comites. Sim. Dun. 136.*

^b *Ad eum item conversus est Thurferthus comes et militie præfecti (Thurferth eorl and tha holdas) totius exercitus, qui ad Hantune pertinebat. C. S. 109.*

^c C. S. 165, 166.

^d Ib. 167.

Roffensis, are reduced into three classes: 1st, They had the third penny of all profits arising from villis, in which were markets, and in the prosecution of thieves. 2d, Certain lands within the county, over which each presided, were set apart for his use. And 3dly, the compensations or payments received by eorls for mundbryce, manbote, or any other forfeiture, were the double of those paid to thanes^a. With regard to the receipt of the third penny from every vill, in which there was a market, we may observe that Domesday-book affords many instances^b. At Thetford^c, Wincelcumbe^d,

^a *Comitis rectitudines secundum Anglos istæ sunt, communes cum rege, tertius denarius in villis, ubi mercatum convenerit, et in castigatione latronum, et comitales villas, quæ pertinent ad comitatum ejus, et consuetudines liberalium hominum dupliciter omnes habere, videlicet duplicem mundam, duplicem manbote, et forisfacturam, duplex etiam habere debet pretium, id est, were. Text. Roff. 45.* Sir Roger Owen says earls had a third part of the profits of pleas, and also of whatever benefit accrued to the king, and this continued till the reign of Henry the second, but about that time a certain sum was given to each in their patents, as was the case of John earl of Salisbury. See Year-book, 32. Hen. 6. MSS. Harl. 6606. p. 737.

^b D. 26.

^c *Tetford modo reddit regi l lib ad pensum, et comiti xx lib blancas et vi lib ad numerum. 2 D. 119.*

^d *Burgum de Wincelcumbe reddebat T. R. E. vi lib de firma. De his habebat Herald' com tertium den id est, xl sol. D. 162. b.*

Chichester^a, Lincoln^b, and Norwich^c, we meet with a general reservation of the third penny to the use of the eorls of the respective counties in which they were situated, and at Shrewsbury^d was a similar reservation in favour of the sheriff, there happening then to be no eorl of the county. In other places the *consuetudines*, or customary payments, whence profit was derived, are mentioned, and it seems that the eorl's third part in market-towns, was not confined to the profits of the markets only, but extended to all the ordinary duties paid to the crown, exclusive of the rents and profits derived from land. Thus at Torchesey eorl Morcar held the third penny of all customary payments^e. At Norwich the king and the eorl had soc and sac, and duties^f,

^a *Cicestre reddebat xv libras, regi x libras, comiti c solidos.* D. 23.

^b *Lincolia T. R. E. civitas Lincolia regi xx libras, et comiti x lib, modo redd' c lib ad numerum inter regem, et comitem.* D. 336. b.

^c *Norwic—tota hec Willa reddebat t. r. e. xx lib regi et comiti x lib.* 2 D. 117.

^d *Sciropesberie—Int. tot. reddeb civitas ista per aññ xxx lib. Duas partes habeb rex, et vicecomes terciam.* D. 252.

^e *De hac Torchesey habebat Morcar ĩcium denarium de omnibus consuetudinibus.* D. 337.

^f *Norwic—de MCCXXXVIII habebant rex et comes socam, et sacam, et consuetudinem.* 2 D. 116.

and at Oxford twenty pounds and six sextaries of honey were paid to the king for toll, (gafol), and all duties, while eorl Algar had ten pounds, in addition to a mill, which belonged to him within the city^a. At Lewes the forfeitures and customary payments are specified, and two parts of them belonged to the king, and a third to the eorl^b. In Hereford the profits of the city were leased to its presiding officer, and he paid, by way of rent, twelve pounds to the king and six pounds to the eorl^c. In Huntingdon was paid not only a fixed sum as the farm of the borough itself, but also a rent or tax called landgable, by individual burgesses. Rent was also paid for three mills and some lands cultivated by the burgesses, and all the money was divided in the usual proportion between the king and eorl^d. Some lands belong-

^a *Tempore regis Edwardi reddebat Oxeneford pro theolonio et gablo, et om̃ibus aliis consuetudinibus per annum regi quidem xx lib. et vi sextar̃ mellis. Comiti vero Algaro x lib. adjuncto molino quem infra civitatem habebat. D. 154.* Algar was eorl of Mercland, in which Oxford was situated.

^b Lewes—After enumerating various forfeitures and customary payments, *De his omnibus sunt (erant) ii partes regis, tertia comitis. D. 26,*

^c Hereford—*de hac civitate reddeb̃ p̃posit xii lib̃ regi, et vi lib̃ comiti Heraldō, et habeb̃ in suo censu supradictas om̃s consuetudines. D. 179.*

^d Huntingdon—*de toto hoc burgo exhibat T.R.E. de langable x lib. inde comes terciam partem habebat, rex duas. De hoc*

ing to the burg at Chester were always within the customary jurisdiction of the king and eorl, as other burgesses were^a; and, after enumerating various forfeitures in that city, Domesday-book states, that two parts of them belonged to the king and one part to the eorl^b. This was the case with respect to the forfeiture for breaking the king's peace^c. And lands lying within the

censu reman̄ nunc super xx man̄s ubi castrum est xvi sol' et viii denar̄ inter comitem et regem. Præter hæc habebat rex xx lib. et com. x lib. de firma burgi, aut plus aut minus, sicut poterat collocare partem suam. Molend' i redd' regi xl sol', comiti xx sol'. Ad h̄c burgum jacent ii hidæ (carucat) et xl ac̄ træ et x ac̄ p̄ti unde partiunt̄ (censu) rex ii part̄, comes terciam. Hanc terram colunt burgenses, et locant per ministros regis et comitis. Infra predictum censum sunt iii pisatores iii sol. reddentes. In hoc burgo fuerunt iii monetarii reddentes xl solid' inter regem et comitem, sed modo non sunt. T. R. E. reddeb' xxx lib, modo similiter. D. 203.

^a *Terra in qua, &c. sed ad burgum pertinet, et semper fuit in consuetudine regis et comitis, sicut aliorum burgensium. D. 262. b.*

^b *Chester—omnium harum forisfacturarum duæ partes erant regis, et tertia comitis. D. 262. b. If ships entered or left the port without license, the king and earl had the fines and forfeitures. Ibid. The twelve judges at Chester were of the men of the king, and bishop, and earl. Ib.*

^c *At Chester—Pax data manu regis, vel suo brevi, vel per suum legatum, si ab aliquo fuisset infracta, inde rex c solidos habebat. Quod si ipsa pax regis jussu ejus a comite data fuisset infracta de c solidis, qui pro hoc—dabantur tertium denarium comes habebat. Si vero a præposito regis, aut*

borough of Lincoln, were possessed by the king and eorl jointly ^a.

It is observable that the profits of boroughs do not appear always to have been collected in one gross sum, and afterwards divided between the king and eorl, but the portion appropriated to each is sometimes specifically mentioned, as may be seen in the foregoing pages. At Huntingdon, as mentioned in the notes to a former page, the farm of the borough is expressly stated to have been more or less to the king and eorl, as each could collect his share, and the lands cultivated by the burgesses were let out by officers appointed jointly by the king and eorl. So at Chester the forfeitures were received by officers appointed by the king and eorl, and of the farm rent of forty-five pounds, and three timbres of marten skins, the eorl had one-third part ^b. It was not uncommon for the two-third parts of the profits of the crown in burgs to be granted away to subjects,

ministro comitis eadem pax data infringeritur per XL solidos emandabatur, et comitis erat tertius denarius. D. 262. b.

^a *In campis Lincoliae—Præter has VIII carucatas h̄t rex et comes CCXXXI acs tr̄æ arabalis inland et c acs p̄ti.* D. 336.

^b *Chester—Hanc forisfacturam accipieb̄ ministri regis, et comitis in civitate, &c. Hæc civitas tunc reddeb̄ de firma XLV lib et III timbres pellium martinium. Tercia pars erat comitis, et II regis.* D. 262. b.

either in the whole or in part. At Ipswich eorl Guert had one-third part, and queen Edeva the other two parts^a, and at Exeter she had two parts and the sheriff of the county the remainder^b. In Stafford the eorl had not only his one-third part of the profits of the borough, but the half of the king's two-thirds^c. Of the profits of some *man-suræ* in the rape of Pevensey the king had only one moiety, and the eorl the other^d. And from the city of Worcester the king had only ten pounds, and the eorl eight pounds^e. But it seems

^a *De dimi H. de Gepeswiz, et de burgo, habuit regina Edeva t. r. e. duas partes et coms Guert terciam partem.* 2 D. 290.

^b Exeter had 315 houses, *Hec reddit XVIII lib p annum. De his habet B. vicecomes VI lib ad pensu et asura, et Coluin. XII lib ad numer in ministeriis Eddid' reginae.* D. 100.

^c *Tempore regis E. reddeburgum de Stadford de omnibus consuetudinibus IX lib denar. Duæ partes erant regis, ticia comitis. Modo ht rex W. de reddit burgi VII lib in suam partem et comitis. Medietatem partis propriae regis ht Robt dono regis, ut dicit.* D. 246.

^d *T.R.E. valebat totum XXVI lib, rex medietatem, et comes aliam hab. Modo val' XXXIII lib et de nova moneta c sol. et XII. De his omnibus ht Wills. medietatem, et rex alteram.* D. 26.

^e In Worcestershire, when there was no earl, the king's revenue was collected by the sheriff. *Wirecestre—de eadem civitate habet ipse rex x lib, et comes Eduin VIII lib.—Modo habet rex W. in dno et partem regis, et partem comitis—de*

that sometimes the king reserved to himself a portion of the eorl's third part, for at Salisbury, Marlborough, Cricklade, Bath, and Malmsbury, he received a sum of money out of the third penny of each ^a.

At Thetford the eorl's third part of land was accounted for to him as part of the profits of his county^b, but at Hereford the rent was paid for the city and eighteen dependent manors, exclusive of the pleas of the hundred and county courts^c.

The *Textus Roffensis* states generally that an eorl derived some emolument from the punishment of thieves, but this was not confined to market-towns, nor was it the only source of

comitatu vero reddt̃ xvii libræ ad pensum—and then these seventeen pounds are explained to be, as well as sixteen pounds numbered, *de placitis comitat̃ et hundretis*. D. 172.

^a *De tertio denario Sarisberie h̃t rex vi lib̃. De t̃cio denario Merleberge iiii lib̃. De t̃cio denario Crichelade v lib̃. De t̃cio denario Bade xi lib̃. De t̃cio denario Malmesberie vi lib̃. De crem̃to lx lib̃ ad Pondus. H̃ reddit Edwardus (vicecomes)*. D. 64. b.

^b Thetford—*de hac terra t̃cia pars est ad comitatum iiii ac p̃ti.* 2 D. 118. b.

And again—*de his autem duabus partibus t̃cia pars in consulatu jacet.* Ib.

^c *Int. civitatem (sc. Hereford) et xviii m̃, qui in Hereford r̃ddt̃ firmas suas, computantur cccxxxv lib̃ et xviii sol. exceptis placitis de hund' et de comitatu.* D. 179.

official profit within his jurisdiction, for he received also one-third part of all the forfeitures and fines incurred in the courts of the king, as well as all other royal perquisites. The profits derived from the punishment of thieves might form a principal part of this revenue, but it did not constitute the whole of it. From an antient book of Battle abbey, written about the reign of king Stephen, we learn that the manor of Wy, in Kent, was given by William the conqueror to the abbey, and to its hundred was annexed the soc of twenty-two hundreds and a half. In consequence of this gift it was usual for the sheriff of Kent to collect the profits of them, and for the steward of Wy to receive from him, on behalf of the abbey, two parts of the amount, the remaining third belonging to Odo bishop of Bayeux and earl of Kent, for *by inveterate custom, which from long usage had acquired the force of a law through all England*, the eorls of provinces took to themselves the third penny^a. According to Gervase of Tilbury, who wrote in the reign of Henry the second, the eorl in every county still

^a *Consuetudinaliter*, says the book, *per totam Angliam mos antiquitus pro lege inoleverat comites provinciarum tertium denarium sibi obtinere*, and then, *inde enim comites dicebantur*. 3 Seld. 671.

took to himself the third part of all the profits arising from pleas therein ^a.

Doomsday-book has many entries which prove that this arrangement was fully known and acted upon before and at the time of the conquest.

The *consuetudines*, or customary payments of the king and eorl in Lincolnshire, are mentioned, and their amount in the different divisions of the county specified ^b. By the laws of Henry the first, in the Danelege, the breach of the king's peace at certain solemn seasons of the year was punished by the fine of eighteen hundreds, which, reckoning each hundred at eight pounds, made one hundred and forty-four pounds, and out of each eight pounds the king had one hundred shillings, and the eorl of the county fifty, "who had," says the law, "the third penny

^a *Comes est qui tertiam partem et portionem eorum, qui de placitis proveniunt in comitatu quolibet, percipit. Summa namque illa, quæ nomine firmæ requiritur a vicecomite, tota non exurgit ex fundorum redditibus, sed ex magna parte de placitis provenit, et horum tertiam partem comes percipit, qui ideo sic dicitur, quia fisco socius est et comes in percipiendis.*
3 Seld. 670.

^b Lincolnshire—*consuetudines regis et comitis*. D. 336. b. *Consuetudines regis et comitis in Sudlincolia reddunt xxviii lib.*—In Norttreding 24 pounds, in Westreding 12, and in Sudtreding 15. Ibid.

“ of forfeitures ^a.” And, in conformity, we learn from Domesday-book, that in the counties of Nottingham and Derby, out of the fine of eighteen hundreds, the king had twelve, and the eorl six ^b. In the counties of Nottingham and Derby if any thane, having soc and sac, forfeited his land to the king and eorl, they took only one half of his land and stock, and his lawful wife and legitimate heirs, if there were any, had the other half ^c. In Nottinghamshire are mentioned by name those who had soc and sac, and toll and thaim, and a

^a The breach of the king's peace at certain times was finable in the Danelege *per XVIII hundreda, qui numerus complet CXLIV libras, quoniam forisfactura hundredi Dani Norwegienses VIII libras habebant. Multiplicatis igitur VIII per XVIII fiunt CXLIV. Et hoc non sine causa. De istis enim octo libris rex habebat c solidos, et consul comitatus L, qui tertium habebat denarium de forisfacturis.* The other ten shillings the bishop or dean, presiding where the peace was broken, took, except at festivals. *Ll. Ed. Con.* 31. Wilk. 203.

^b Lincoln.—*Pax manu regis vel sigillo ejus data si fuerit infracta, emendetur per XVIII hundrez. Unum quodque hundred solvit VIII libras, XII hundrez emendant regi et VI comiti.* D. 336. b. So in Nottinghamshire and Derbyshire. D. 280. b.

^c Nottinghamshire and Derbyshire.—*Si tainus habens socam et sacam forisfecerit, terram suam inter regem et comitem, habent medietatem terræ ejus atque pecuniæ, et legalis uxor cum legitimis hæredibus, si fuerint, habent aliam medietatem.* D. 280. b.

right to receive the customary dues to the king of two pennies, with an express declaration that three of the persons specified only could be entitled to the third penny of the eorl, except by his grant, and that for the term of his life ^a. In Yorkshire, which was also within the Danelege, all forfeitures of those who had soc and sac enured to the benefit of the king and eorl ^b. In Derbyshire, when Domesday-book was compiled, the two pennies of the king and the third penny of the eorl, derived from Apletrew wapentake, were accounted for by the sheriff ^c. Throughout the soc of Cliftun, in Nottinghamshire, the eorl had the third part of all customs and works ^d, as he

^a Nottinghamshire.—*Hic notantur, qui habuerunt socam et sacam, et thol et thaim, et consuetudinem regis 11 denariorum, and, after the names, horam omnium nemo habere potuit tertium denarium comitis, nisi ejus concessu, et hoc quamdiu viveret, præter archiepiscopum, et Ulf fenisc, et Godeve comitissam.* D. 280. b.

^b *Hi habuerunt socam et sacam, et tol et thaim, et om̃s consuetud', &c. Ex his qui forisfecit nemini em̃davit nisi regi et com̃.* D. 298. b.

^c Derbyshire—*Duo nummi regis et tercius comitis, qui exeunt de Apletreu wapent. (in Derberie) sunt in manu (vel censu) vicecomitis testim. duarum scirarum.* D. 280.

^d *Super socam quæ jacet ad Cliftune debet habere comes terciam partem omnium consuetudinum et operum.* Nottinghamshire. D. 280. b.

had of all rents and profits arising from eight salt-pits in Cheshire^a.

The eorl who presided over Nottinghamshire, we have seen in a preceding page, was authorised not only to receive, but to grant to others during his life, his interest in one class of forfeitures incurred within his jurisdiction. It may be questioned whether he had power to grant away his other perquisites, but Mundret is said to have held the city of Chester at a rent under the eorl, as also all the profits of the pleas of the eorl in the county and its hundreds, except Inglefeld^b.

An instance of the third penny of a county being separated from the office of eorl of the county and annexed to a manor of the king, occurs in Dorsetshire^c, and several instances may be mentioned of the third penny of hundreds being annexed to manors in a similar manner. Thus, to

^a The profits of eight salt-pits in Warmunddestrow hundred were divided, *ita quod de omnibus exitibus et redditionibus salinarum habebat rex 11 partes et comes tertiam.* D. 268.

^b Chester—*Hanc civitatem Mundret tenuit de comite pro LXX libris et una marka auri. Ipse habuit ad firmam pro L libris, et una marka auri omnia placita comitis in comitatu et hundredis præter Inglefeld.* D. 262. b.

^c Dorsetshire *terra regis.*—*Huic etiam manerio Piretone adjacet tercius denarius de tota scira Dorsete Reddit cum omnibus appendiciis LXXIII lib.* D. 75.

Macclesfield in Cheshire was annexed the third penny of the hundred, in which it was locally situated^a, and to Mollande in Dorsetshire belonged that of the hundreds of Northmolton, Badenton, and Branton^b, to Cvre in Herefordshire that of three hundreds, not named^c, and to Burgelle in the same county that of the two hundreds of Stradford and Chistestornes^d.

That there were certain lands in each county set apart and appropriated to the use of the eorl for the time being, we are assured in the *Textus Roffensis*, where they are called *comitales villas*, and this is confirmed by entries in Domesday-book. At Thetford two mills are mentioned, of which the king had two parts and the eorl a third, and another mill of which the king had

^a Maclesfeld—*īcius denarius de hundret pīnet huic mān*. *T. R. E. valb. viii, modo xx sol. Wast fuit. D. 263. b.*

^b *Ipsi manerio (Mollande) pertinet, tertius denarius de Northmoltone et Badentone, et Brantone et tertium animal pasturæ morār*. *D. 101.* In the Exeter Domesday-book Northmoltone, Badentone, and Brantone are all described as hundreds, and to the entry is added *Hanc consuetudinem non habuit rex priusquam ipse habuit Angliam. Exon. D. 94. b.*

^c *Ad hoc m̄ pertinebat tercius denarius de tribus hund'* *T. R. E. modo ablatu est. D. 186.*

^d *T. R. E. pertinebat huic mān tcius denarius de duobus hund' Stradford et Chistestornes. D. 186.*

two parts, and of those two parts the eorl had a third^a. In Yorkshire the eorl was excluded from all beneficial participation in the rents or profits of the king's demesne manors, and the king had no interest in any of the manors of the eorl, except as far as the church was concerned^b. And in the borough of Stafford were *mansiones*, some held of the honour of the eorls, others held of the county^c, which expressions appear to have been used synonymously.

The last source of revenue belonging to eorls, was from certain fines and forfeitures, to which they were entitled upon the commission of various offences against them, being double to those given to thanes upon similar occasions. Mundbryce and some other forfeitures have been

^a Thetford—*Et de duobus molendinis h̄t rex duas partes et consul t̄ciam. H̄t etiam rex de t̄cio mol' duas partes et de his duabus partibus comes h̄t t̄ciam.* 2 D. 118. b.

^b *Eurvicscire. In dominicis maneriis nihil omnino comes habuit. Neque rex in maneriis comitis præter quod ad Christianitatem, quam ad archiepiscopum pertinet.* D. 298. b.

^c *In burgo de Stadford habet rex in suo dñio XVIII burgenses, et VIII vastas man̄s. Præter has h̄t rex ibi XXII man̄s de honore comitum. Harum v sunt vastæ, aliæ inhabitantur. Hugo, the son of Roger the earl, tenet de comitatu v man̄s et p̄tiñ ad Guruelde. Robt de Stadford h̄t XIII man̄s de honore comitum et p̄tiñ ad Bradeliæ.—Will's f̄ Ansculfi h̄t de comitatu III man̄s quæ p̄tiñ ad Pennam M̄ comitis.* D. 246.

noticed in the early part of this chapter. *Manbote* was a fine paid to the lord for killing his vassal or slave, in order to compensate for the loss, and by the 12th law of Edward the confessor an archbishop, according to the laws of the Angles, was to receive for *manbote* three marcs upon the death of any of his vassals by violence, the bishop of the county, or *eorl*, or the king's steward, were to receive each twenty shillings, but other barons or thanes only ten shillings^a. With regard to the *weres* of *eorls* we may refer to our first chapter^b, where it has been mentioned that the *were* of a bishop or *ealdorman*, i.e. an *eorl*, was 8,000 *thrymsas*, of an *ætheling* 15,000, and of the king 30,000. Of lower dignity than an *eorl* were the *hold* and *high gerefæ*, whose *weres* were 4,000 *thrymsas* each, a *thane's* was 2,000, and a *ceorl's* 266 only.

The political power enjoyed by *eorls* was frequently formidable to the crown itself. This arose not merely from their official consequence, but the extensive possessions which they and the different branches of their families held, as tenants

^a *Manbote vero Anglorum lege, regi et archiepiscopo tres marcas de hominibus eorum propriis. Sed episcopo ejusdem comitatus et consuli, et dapifero regis xx solidos. Baronibus autem aliis decem solidos. Ll. Edw. Con. c. 12. Wilk. 199.*

Ante, p. 42.

to the king. Turketul, chancellor to king Edred, in 948, had 60 manors^a. Eorl Godwin held 14 manors in Kent, 44 in Sussex, 1 in Herefordshire, 1 in Surry, and 11 in Hampshire^b. But the profusion with which William the conqueror lavished upon his favourites the lands which Harold's adherents had forfeited, is unexampled in history. The eorl of Moretaine, the Conqueror's half-brother, had 793 manors, Alan eorl of Bretagne 442, Odo bishop of Bayeux 439, the bishop of Coutance 280, Roger de Bussi 174 in Nottinghamshire only, Ilbert de Laci 164, most of them in Yorkshire, William Peverel, the Conqueror's natural son, 162, Robert Stadford 150, Roger de Laci 116, and Hugh de Montfort more than a hundred^c, besides a vast number of grants of a less extensive nature.

The usurpation of Harold is a striking instance of the perilous state of the throne from the accumulation of power and property in the hands of subjects. William the conqueror and his successors continued to distribute with unsparing hands honours and lands to their favourites for several centuries^d, and the stability of the government

^a *Ingulph.* 496.

^b *Hasted's Kent.* LIII.

^c *Gen. Introd. to Domesday-book,* LXXII. And see *Kelham.* 25. 41.

^d *Prefatus igitur dux Normaniæ, Richardus, filius Henrici regis Angliæ proximo defuncti, venit in Angliā; et dedit*

in modern times may be justly attributed, in a great degree, to such abuses being no longer practicable.

The rebellious conduct of the eorls towards their kings, was not the whole of the mischief occasioned by this system of favouritism. The oppression and tyranny they exercised over their unfortunate vassals and subjects, and the influence they possessed over persons, not in the immediate circle of their power, reached the highest ranks and contaminated the supreme courts of justice. Ingulphus mentioning the law-suit, which Walgatus abbot of Croyland, carried on against Leofric abbot of Burgh, in the king's court, says that, notwithstanding he pleaded most forcibly, yet he lost the seat of his monastery, so great was the money of Leofric and the power of eorl Godwin^a. After the conquest we are told of

Joh. fratri suo comitatū Moretoniī, et comitatū Cornubię, et Dorsetę et Sumesetę, et comitatū de Notingham, et comitatū de Derebisire, et comitatū de Loncastre, et castellū de Merleberge et de Lutegareshall, cum forestis et omnibus pertinentiis eorū, et honorem de Walingford et honorem de Tekehil, et honorem de Haia, et comitatum de Gloucestria cum filia comitis, et eam fecit illi desponsari statim; Baldervino, Cantuariense episcopo, prohibente quia erant consanguinei in quarto gradu, præterea dedit ei le Pec, et Bolesoueres, sed quædam castella prædictorum comitatum et honorum retinuit dux in manu sua. Hoveden. 373. b.

^a *Ingulph. 507. b.*

eorls granting liberties, imposing exactions, legislating, and exercising most of the regal prerogatives. Many charters were given by them to burghs, particularly in the west of England, granting privileges, such as are now held to be solely in the power of the crown to bestow. Richard, eorl of Poicters and Cornwall, sent letters of protection, which Selden had seen, to the sheriff of Rutland on behalf of a nunnery near Stamford, and his successor, Edward, made constitutions, granted liberties, and imposed subsidies in the stannaries of Cornwall ^a. William Fitz Osberne eorl of Hereford, assuming the power of legislation, made a law in his county that no knight should be amerced above seven shillings, which was strictly observed in the time of William of Malmsbury, and considered as a great relief to those within its operation ^b.

^a *Seld.* 1846.

^b *Will. Malms.* 59.

CHAP. III.

OF THANES.

THE word "Thane" is certainly of northern origin; Camden says that in his time it was in use among the Danes, and later writers give reason to suppose that it is not now wholly laid aside among them. The Saxon Chronicle, under the year 988, notices Goda, a Danish thane, and thanes are also mentioned in Snorre. This word may be derived from the Saxon verb "thegen," to serve; it was rendered into Latin by the word *minister*^a, and, in the English language, "officer" is nearly equivalent to it. Lilla is mentioned as a thane of king Eadwin in the year 626^b, and in 656 all the thanes, with the archbishop, bishops, eorls, and others, were summoned by king Wulfer to attend at the consecration of the abbey of Medeshamstede, and they attested his grant of land and privileges^c.

^a "*Minister regis*" is translated in Bede by "cyninges theng," and "*minister regis amicissimus*" into "cyninges thegn him se holdesta." *Ecc. Hist. lib. 4, c. 22, and lib. 2, c. 9.*

^b C. S. 27.

^c Ib. 35.

We read of the king having his disc-thegn, or thane of the dishes, hregel-thegn^a, or thane of the wardrobe, hors-thegn, or thane of the horses, &c. Indeed, during the early part of the Anglo-Saxon history, all officers attached to the person or household of the king seem to have been called indiscriminately thanes, and long before the Norman conquest they had acquired great dignity and consequence, and the name of thane had become a title of honour.

For the proper understanding of the meaning of the word “thane” we shall now refer to numerous entries in Domesday-book, and make some observations tending to their illustration. But we must premise, that Domesday-book is divided into counties, at the head of each county is prefixed a table of contents specifying the names of the

^a A charter of Æthelred to the church of Canterbury was signed in this manner:—Ic Æthelred engla cyning thysne xrēs cyrcean sunder freols on xrēs ferengthe ge trymme. Ic Ælfric xrēs cyrcean arceb' thoes godan anges freols midpode tacne afre ge Strangie. Then after bishops, abbots, and ealdormen—Ic Æthelmar mines hlafordes disc then gewitnys—Ic Ordulf ealswa trythe gewitnys. Ic Eardric trythe gewitnys. Ic Byrhtric cinges thegen gewitnys. Ic Æthelric ealda trythe gewitnys. Ic Leofric hrægel then trythe gewitnys. Ic Siward cynges thegen atræde & æt runan thisrespræce trythe gewitnys. *MSS. Cott. Claud. A. 3. p. 4. b.*

landholders within it, and the text itself is separated into corresponding divisions.

In the table of contents prefixed to each of nine counties (as well as in the several titles inserted in the text) namely, those of Hants, Wilts, Somerset, Devon, Gloucester, Huntingdon, Warwick, Derby, and York, “the thanes of the king” are distinctly mentioned. In Buckinghamshire and Lincolnshire they are noticed in the contents only, and in the Isle of Wight, and counties of Dorset, Hertford, and Stafford, only in the titles to the text. In each of the counties of Buckingham, Northampton, and Stafford, the land “of thanes” forms a distinct head, without any words to shew connection with the crown, as they do also in the titles to the text in the shires of Surry, Nottingham, and Lincoln. Berkshire is the only county, in which both the table of contents and title in the text mention “thanes” generally, but we may presume that these thanes were thanes of the king, for in Lincolnshire, where in the contents are “68. *Sortebrand*,—69. *Chetelbern, et aliorum*,—70. *Tainorum regis*,” the only corresponding title in the text is “68. *Sortebrand et aliorum Tainorum*,” N^{os} 69 and 70 being omitted, and the names of Chetelbern and others inserted under

the head numbered 68. That both descriptions were used indiscriminately is further confirmed by several of the names, classed under the lands of the thanes of the king, being the same as are found under those of thanes described only as such.

In general the names and not the offices of the thanes are mentioned, but occasionally, where there has happened to be more than one of the same name, they are distinguished by the insertion of their official situation, either above their proper names, or immediately after them, and thus we discover with precision the offices held by some of those who compose the lists. In other instances also the king's officers are not included in the general lists of thanes, but distinguished by separate titles, in which the offices they held are mentioned. Thus, the lands of "Humphrey the chamberlain" are described in Surrey, Hampshire, Berkshire, Wiltshire, Dorsetshire, Gloucestershire, Leicestershire, and Suffolk; of Nigel the physician, in Hampshire, Wiltshire, Herefordshire, and Shropshire; of Robert the marshal^a, in Wiltshire, &c. In different counties the title of *accipitrarius* is given to *Bernard* and

^a Mareschal is compounded of two German words, "märe," a horse in general, and "scalk," a groom or servant.

Eldric—arbalistarius to Odo, Bernerus, Radulf, and *Robertus—arcuarius* to *Willielmus—artifex* to *Radbell—aurifaber* to *Teodoricus* and *Otto—balistarius* to Odard, Nicolaus, Walter, Odo, Heppon, and *Rainaldus—camerarius* to *Turstin*, *Herbert*, *Aiulfus*, and *Willelmus—coquus* to *Humfridus*, *Gislebertus*, *Albericus*, *Galt'*, and *An̄s—dapifer* to *Eudo*, *Radulfus*, *Hamo*, and *Godricus—forestarius* to *Ricardus—hostiarius* to *Robertus* and *Willelmus—legatus* to *Ricardus—loremannus* to *Goscelinus—mareschallus* to *Rogerus* and *Giraldus—piscator* to *Osbernus—pistor* to *Erchangerius—thesaurarius* to *Henricus*^a—*tonsorator* to *Durand—venator* to *Waleran*^b and *Croch*. In one place *Goisfridus camerarius filiæ regis* is mentioned, and in Cambridgeshire *duo carpentarii regis*, whose names are not recorded.

That persons thus described, except the carpenters, were dignified with the title of thanes, is evident from their being mentioned in those counties where their lands lay, not under separate

^a *Kynges hordera* occurs in *Ll. Æthelst.* 3. *Wilk.* 57, i.e. hoarder, treasurer.

^b This *Waleran* was probably a man of considerable rank; he held manors in Hampshire, Wiltshire, and Dorsetshire. The king's wolf-hunters are mentioned in 2. *Hen.* 2. 1. *Mad. Exch.* 204.

heads, but under the general titles of thanes, or thanes of the king.

Among the thanes of the king in Hampshire we distinguish *Syric camerarius* and *Bernard camerarius*, *Alsi berchenistr̃*, and the title of *venator* applied to *Cola*, *Ulviet*, *Edwin*, *Uluric*, and *Turbert*. We have also *Goduin accipitrarius*, *Hugo latinarius*^a. In Wiltshire *Grimbald auri-faber*, *Godric venator*, *Ulviet venator*, several priests, and *Edric (cecus)*, and the foresters of the king, are said to hold a hide and a half in the forest of Gravelinges, worth thirty shillings.

Servientes regis occur in the contents of the counties of Surrey, Hampshire, and Warwickshire, and in the text of Wiltshire, and in both contents and text in Dorsetshire and Leicestershire. In Surrey these words are used synonymously with *taini*, as appears from comparing the head in the contents, “*Oswold, Teodricus, et alii servientes regis*,” and that in the text, “*Terræ Oswoldi et aliorum tainorum*,” among whom *Tedricus auri-faber* is found next to *Oswold*, and second upon the list. *Tezeliñ coquus*, *Anscot interpres*, *Chetel venator*, and *Whui venator*, are also mentioned. So in Warwickshire, in the contents as one head, are the words “*Ricard, et alii taini et servientes*

^a *Rad latinarius* is also mentioned, 2 D. 101.

regis," and in the text "*Terra Ricardi forestarii*," under which are mentioned *Ricardus forestarius*, and *Ricardus venator*. But in Hampshire a manifest distinction is made, and they are placed under separate titles,—*Hugo de la barbe, et alii plures servientes regis*, coming first, and then *Odo de Wincestre, et alii multi taini regis*. Several of the thanes of this county we have mentioned before, and among the *servientes* are *Milo portarius*, *Albend' camerarius*, and *Osbern accipitrarius*. The two last the reader will observe have been before described to be holders of offices which belonged to thanes. The distinction between thanes and *servientes* is, however, strongly marked in Dorsetshire, where, both in the contents and text, are distinct titles for thanes of the king and *servientes* of the king. In Oxfordshire, in the contents, is this title, "*Ricard' ingania, et alii ministri regis*," to which in the text is a corresponding title, under which it may be observed the lands not only of *Herveus* are mentioned, but of *Teoderic aurifaber*, *Rainald' arcuarius*, *Sivard venator*, *Alwi vicecomes*, &c. In Wiltshire the *servientes regis*, *thani regis*, and *ministri regis*, have each distinct heads in the contents, but in the text the corresponding titles are *servientes regis*, *thani*

regis, and, as synonymous with *ministri*, the word *servientes regis* again. In the first class are mentioned *Ansgerus coquus, et Stefanus carpentarius*, and in the last, denominated in one place *ministri*, in the other *servientes*, are *Herveus, Johannes hostiarius, Oderius camerarius, Turs-tin camerarius, Albericus camerarius, Gund-vinus granitarius*, and *Warinus arbalistarius*. In the contents for Berkshire is “63. *Teodoricus aurifaber, Odo et alii plures taini*,” but the titles in the text do not exactly correspond, for N° 60. is “*Terra Teoderici aurifabri*” alone; then 64. is “*Terra Stefani filii Eirardi*,” and 65. “*Terra Odonis, et aliorum tainorum*.” These entries prove that Teoderic, the goldworker, and others with him, though classed among the *servientes*, were entitled to the denomination of thanes. So the *Terra tainorum regis* in Hertfordshire includes Baldwin, a *serviens* of the king^a, and upon the king’s demesne in a manor in Herefordshire a *serviens regis* is mentioned^b.

Among the *servientes regis* in Dorsetshire are

^a *Baldwin quidam serviens regis ten. III virg. in Brichedone.*
D. 142.

^b *Rex tenet Lucvordne. Rex E. tenuit. Ibi IIII hidæ in dñio sunt III car et IX vill. et III bord. et un serviens regis.*
D. 179. b.

Herveus cubicularius, et Osmund pistor; among those of Devonshire is *Willelmus hostiarius*.

Some of the *servientes* of the king appear to have possessed large estates, which tends further to support the conjecture that the distinction between them and the thanes might not be always strictly attended to. In Dorsetshire we find Hunger, the son of Odin, possessed of the manor of Windsore, which had gelded for twenty hides, and on which he had in his demesne seven slaves, thirty-eight vileins, and twelve bordars. In other places we find many persons of this description holding two, three, four, five, or more hides. Even Stephen the carpenter held land paying for three hides and one virgate, and may have been one of the two carpenters before mentioned, who jointly possessed five hides in the county of Cambridge, described under a separate title, without mentioning their names.

In the 21st law of Edward the confessor we have an enumeration of those persons who were included among the *servientes* of great men; they were the house-steward, cup-bearer, chamberlain, baker, and cook^a. The bishops and ecclesiastical houses also had similar attendants. *Henry de*

^a *Dapiferos, pincernos, camerarios, pistor, et cocos.* Wilk. 202. A *dapifer* or steward of William de Ou was crucified. C. S. 204.

Capella, a *serviens* of the archbishop of York, was imprisoned because he would not permit the king to have some of the archbishop's wines ^a. And at the abbey of Croyland a great stable was built, over which were made chambers for all the *servientes* of the abbey ^b. The *servientes* of subjects were, as well as those of the king, remunerated for their services by grants of land from their lords. Instances of this sort occur in the county of Chester, with respect to the *servientes* of the eorl ^c. So two *servientes* of Wisgar are mentioned to have possessed land in Essex, in

^a *Hoveden*. 464. b.

^b *Ingulph*. 506. b. After the conquest, in the abbey of Evesham were sixty-seven monks, including twelve who had been sent into Denmark by king William when he was a young man, and five nuns, three paupers, and three clerks, who were treated in every respect as the monks. " LXV *servientes fuerunt in monasterio, scilicet v in ecclesia, duo in domo infirmorum II in cellario, v in coquina VII in pistrino, IIII qui faciunt cervisiam, IIII sertores, II in barnario, II sutores, II in pomerio, III ortolani, I ad hostium claustrum, II ad magnam portam, v ad vineam, IIII qui serviunt monachis quando pergunt foras, et IIII piscatores, IIII in cambria abbatis, III in aula, II vigilantes.*" 1 Mon. 146.

^c *Rogeri ten. de com. Cerlitone*—*Ibi servientes hnt, &c.* D. 255. b. *Cestrescire unus serviens comitis (i. e. Hugonis) tenet unā terram in hoc hund'. Hæc terra nunquam fuit hidata. Ibi habet I car. cum. 2 bovar. Val. 4 sol'. D. 267. b.—II villi et un serviens comitis. D. 269.*

the time of the Confessor^a, and Nigel was a *serviens* of earl Robert^b.

The attendants of the more powerful lords must have been very numerous, each lord striving to exceed the other, not only in magnificence, but in the number of his retinue in the field. Every castle had an establishment upon the model of the royal residence, and no expense was spared to increase the number and dignity of those who submitted to fill the requisite situations there. The advantages held out were, not merely entertainment and reward, but, what in those days was much more material, protection also. Thanes and *servientes* therefore crowded the halls of popular lords, and we cannot be surprised that Ingulphus should with exultation describe the family of Morcar, lord of Brunne, as “numerous and most brave^c.”

The *servientes* of the king seem to have been advancing in consequence at the time of the conquest, and this may account in some degree for their being occasionally ranked in Domesday-

^a *In Bādefelda tenet Wiclard' 1 hid' quam tenuerunt — 11 servientes Wisgari, et tē non reddebant consuetudinem vel gelt. regi, nec poterant abire sine jussu dñi sui, ut hund' testant.* 2 D. 41. b.

^b *Nigellus quidam serviens Rotb̄ti comitis.* 2 D. 291. b.

^c P. 492. b.

book with the thanes, and the descriptions of the lands of both sometimes confusedly mixed together. This is more strongly evinced by their subsequent history, which to give in detail does not enter into the design of this work, but it may be briefly remarked, that in the 68th law of Henry the first they are placed in the same situation, respecting personal property, as the stewards of the manors (*prepositi* or *ministri*) of any other lords. And in 1184 Henry the second appointed two *servientes*, belonging to his house and family, to be keepers in certain districts, to superintend all other foresters, whether belonging to the king, or any knight or baron^a. In later times the meaning of the word has undergone material changes, and it was for a considerable period frequently used to denote persons who served as substitutes for others in military services.

From the passage cited from Ingulphus, and the appointment, just mentioned, by Henry the

^a In the year 1184, on the death of Thomas the son of Bernard, chief justice of all the forests in England, king Henry the second divided the forests into several portions, and set over each four justiciaries, viz. two clerks, and two knights, and two *servientes de domo et familia ipsius, custodes venationis, et viridis super omnes alios forestarios, tam regis quam militum et baronum*. Hoveden. 355. b.

second, it may be inferred that the title of *serviens* was usually appropriated to those attendants of the king whose duties were confined to the place of his residence, and who made part of his household and family^a. That of thane might be of higher dignity and larger extent, comprehending all the public functionaries of government, and all the superior officers attached to the royal person or household.

Spelman has copied, in his Glossary, some laws of Cnute for the better government of his forests. They are written in Latin, but it is impossible to read them without feeling strong suspicions that they were not written originally in that language, and in other respects their authenticity might be disputed. But taking the copy he has given as a very faulty translation of a Saxon original, it affords much valuable information, and may cast some light upon this part of our subject. Four

^a Below the *servientes* were the *famuli regis*. Some are mentioned in Domesday-book as holding small portions of land, probably granted in remuneration of their services. *Et quidem famulus regis tenet viii ac et val' ii sol'. 2 D. 98. b. Franci hōes tenent li ac et non sunt in firma regis. Tc val' viii sol' m° v hanc trām tenet famulus regis, et non reddit geldum. Ib. 4.*

Godric claimed a quarter of an acre of land in Saham as belonging to the fee of Ralph in Stow, *ex hoc offert quidam famulus regis, portare judicium. Ib. 110. b.*

persons of high rank who had their own customs and privileges, named by the English *pegened*, and the Danes *ealdormen*, were appointed to have the administration of justice within each province, with the title of chiefs of the forest. Under each of these were four of the middle-men, whom the English called *lespegend*, but the Danes *yoong men*, who were to take care of the *vert* and *venison*^a. Under these again were placed two of lower rank, called by the English *tinemen*, who were to watch by night and do the baser sort of works, and, if they were of servile condition before, as soon as they were employed in the forest they became free. For his maintenance each chief had annually two horses, one with a saddle the other without, a sword, five lances, one helmet, one shield, and two hundred shillings in silver. Each of the middle-men had one horse, one lance, one shield, and sixty shillings in silver, every tineman had one lance, one cross-bow, and fifteen shillings. The were of a middle-man, according to the laws of the *Werini*, i. e. the *Churingi*, or as Spelman reads, the *Thuringi*, is stated to be two hundred shillings, and that of a chief is said to be twelve

^a The arrangement of Henry the second, mentioned in the note to p. 129, was evidently taken from this.

hundred shillings^b. Spelman suggests, with good reason, that the words “pegened,” and “les-
“pegend^a,” have been written by mistake of the transcriber for “thegen,” and “less thegen.”

^a Less pegend is translated by Bromton by the words *mediocris thanus*. *Seld. Tit. Hon. lib. 2, c. 5, s. 4.*

^b 1. *Sunt jam deinceps quatuor ex liberalioribus hominibus, qui habent salvas suas debitas consuetudines (quos Angli pegened appellant) in qualibet regni mei provincia constituti, ad justitiam distribuendam, unà cum pcena merita et materiis forestæ cuncto populo meo, tam Anglis quam Danis, per totum regnum meum Angliæ, quos quatuor primarios forestæ appellandos censemus.*

2. *Sint sub quolibet horum, quatuor ex mediocribus hominibus (quos Angli lespegend noncupant, Dani verò yoong men vocant) locati, qui curam et onus, tum viridis tum veneris, suscipiant.*

3. *In administranda autem justitia nullatenus volo ut tales se intromittant: mediocresque tales post ferarum curam susceptam, pro liberalibus semper habeantur, quos Dani ealdor-men appellant.*

4. *Sub horum iterum quolibet sint duo minutorum hominum, quos tineman Angli dicunt, hi nocturnam curam et veneris et viridis tum servilia opera subibunt.*

5. *Si talis minutus servus fuerit, tam cito quàm in foresta nostra locabitur, liber esto, omnesque hos ex sumptibus nostris manutenebimus.*

6. *Habeat etiam quilibet primariorum, quolibet anno de nostra warda, quam michni Angli appellant, duos equos, unum cum sella, alterum sine sella, unum gladium, quinque lanceas, unum cuspidem, unum scutum, et ducentos solidos argenti.*

7. *Mediocrum quilibet, unum equum, unam lanceam, unum scutum, et 60 solidos argenti.*

That the four chiefs or *liberaliores homines* were of the rank of thanes may be collected from a passage in the *Textus Roffensis*, quoted in the last chapter^a, mentioning that the revenue of an eorl was derived in part from his having double the mund, manbote, forfeitures, and weres, which were paid to the *liberales homines*, for as that was the precise difference between the penalties received by eorls and thanes in many instances, there can be little doubt that by that description the latter must be referred to^b. But

8. *Minutorum quilibet, unam lanceam, unam arcubalistam, et 15 solidos argenti.*

12. *Liberalis autem homo, i. pegen, modo crimen suum non sit inter majora, habeat fidelem hominem, qui possit pro eo jurare juramentum, i. forathe, prejuramentum: si autem non habet, ipsemet juret, nec pardonetur ei aliquod juramentum.*

33. *Quod si casu inauspicato hujusmodi, canes rabidi fiant et ubique vagantur, negligentia dominorum redduntur illiciti, et emendetur regi pro illicitis, &c. Quod si intra septa forestæ reperiantur, talis exquiratur herut, et emendet secundum pretium hominis mediocris, quod secundum legem Werinorum, i. Churingorum, est ducentorum solidorum.*

34. *Si canis rabidus momorderit feram, tunc emendet secundum pretium hominis liberalis, quod est duodecies solidis centum. Si verò fera regalis morsa fuerit, reus sit maximi criminis.*

^a P. 100, note ^a.

^b Du Cange defines *liberalis homo* to be a thane, and quotes from the *Textus Roffensis* a law of Cnute, *Si in*

another passage in the same book is still more explicit, for it declares that the possession of certain requisites rendered a villan or ceorl “*dignus*” “*honore liberalitatis, quod Angli dicunt thegen-*” “*scipes wyrthe*”^a. Further proofs that the four chiefs in question were thanes, may be adduced from each of them having power to engage a substitute to take, on the trial by ordeal, the forath^b, which was a privilege of the order, and also from his were being fixed at twelve hundred shillings, which was the established were of the highestthane. The less thegend seem to answer exactly to the *servientes* of Domesday-book, and the distinction between them and the four superior thanes may have been, that the latter were invested with judicial authority, but the former acted only ministerially and by their orders.

domo liberalis quem supra thegen nominavimus, et quidam dicunt Twelfhæend man hoc fit, &c. Gloss. in voce Liberales.

^a *Text. Roff. 44, 46.*

^b The forath is thus described, *Ll. Æthelst. 23. Wilk. 61.* — *Et juret tunc juramentum illud, quod juxta jus gentium (mid folcrihte) innocens sit earum accusationum antequam ad ordalium habeat.* The form of the oath is given, *Ib. 63— Et si thanus fidelem (getrywne) hominem habeat ad præjurandum pro ipso hoc licitum est, si non habeat, ipsius sermo procedat, et non sit unquam aliquod præjuramentum remissum. Wilk. 137. Ll. Cnuti. 20. See also Ll. Inæ. 78.*

Upon the whole we may conclude, that in Doomsday-book the word “thanes,” when used without the addition of any words of description, generally signifies the king’s officers; that the word “*servientes*,” though sometimes used to describe the same persons, is more properly applicable to an inferior description of attendants; and that the word “*ministri*” may signify either thanes or *servientes*, but more properly the latter. The *aurifaber* is classed in one place as a *minister*, in another as a *serviens*, in a third as a thane; the *venator* as a *minister*, a *serviens* or thane, and a thane; the *camerarius* as a *minister* or *serviens*, and a thane; the *hostiarius* as a *minister* or *serviens*, and a *serviens*; and the *accipitrarius* as a *serviens*, and a thane.

It remains to be observed that, interspersed in Doomsday-book, and not under any particular titles, may be found occasionally the names of tenants of land distinguished by the addition of the offices they held under the crown, as *Walterus balistarius regis*^a, *Bedic jocular regis*^b, and many others.

In the titles to the contents, in which thanes are mentioned, *elemosynarii* are sometimes joined with them, as in Buckinghamshire, *Taini regis et*

^a D. 162.^b D. 298.

elemosynarii. In Bedfordshire, *Prefecti regis bedelli et elemosinarii*. In Northamptonshire, in the contents, *Leuuinus p̄br et alii clerici*, and, in the text, *Terra elemosinarii regis*. In Leicestershire we find in the contents, *Godvinus p̄br et alii elemos̄*, and, in the text, *Elemosinarii regis*. In Warwickshire, 43. *Leveva et Eddid'* ; in the text, 43. *Elemosinæ regis*.

For what reason the lands of some of the thanes were specifically mentioned under distinct and separate titles in Domesday-book it might be difficult to explain. It could not be from the superior dignity of the holders, because their names are also found in other counties not so distinguished, but mentioned under the general heads, nor could it arise from the superior magnitude of their possessions when compared with others, for in Wiltshire, among those classed under distinct titles, is Humphry the chamberlain, who held land which had gelded for five hides only. Nigel the physician had one manor, paying as for thirty hides, and other lands which had gelded for nearly fourteen, and Robert the marshal held one manor, which had paid for fifteen, besides other lands which had paid for thirteen more. In the general list of "Odo" "and other thanes of the king," which forms one

of the divisions of tenants in the same county, we have the name of Brictric, holding land in different manors, which had paid geld for fifty hides, twelve of which lay together, while Odo, whose name is at the head of the list, held land which had paid as for five hides only. In the same list are mentioned thanes who held land having paid for five, six and eleven hides, and yet in many instances the possessions of others, placed under distinct and separate heads, are much less valuable or extensive. In Hampshire the "*Terra durandi de Glowēc*" consisted of two parcels, each of which in the time of king Edward, as well as in that of William, had been reckoned only at two hides, but he had lands of greater extent in other counties. The "*Terra Willī arcuarii*," in the same county, also consisted of two parcels, one of which gelded in the time of Edward, as well as of William, for half a hide, and the other was claimed to be four hides and a half in king Edward's time, but when Domesday-book was compiled consisted of three only^a. The *Terra Willelmi alis* in the same county was only three hides^b, and that of *durandi tonsoris* only one hide^c. The *Terra Walteri diaconi* in Gloucestershire consisted of

^a D. 48. b.^b Ibid.^c D. 49.

four hides and a half^a, and I do not find any of these three last held land elsewhere. Moreover the *Terra Will' Buenvaslet* in the county of Leicester^b, was only two *carucates*, and of that it is remarked "*vasta fuit, et est.*"

The difficulty to which we have alluded would be removed, if it could be ascertained that the lands mentioned in the preceding paragraph had been set apart by the crown for the express purpose of remunerating the services performed by thanes. In such appropriation, perhaps, we might trace the origin of thaneland, but a fuller discussion of this subject is reserved for another place. The poverty and simplicity of our ancestors afforded them no other means of requiting services rendered to them, except by grants of land, or privileges connected with it. In this manner the highest and lowest were alike compensated, whether eorls, thanes, *servientes*, or ceorls. To such an extent was this carried that the sheriff of a county paid a young woman, for teaching his daughter to embroider in gold, by a grant of half a hyde of the king's demesne, to hold as long as he should continue sheriff^c. And Nigel de

^a D. 169.

^b D. 235.

^c Achelei was assessed as five hides and three virgates, *Hoc v hidæ et III virgæ sunt VIII hid'*. *De his tenuit*

Albingi rewarded his concubine by a grant of two hides of his land ^a.

In Dorsetshire, at the end of the head entitled “Lands of the thanes of the king,” is a memorandum that all who had these lands in the time of Edward might go to what lord they pleased ^b. Then follows “The lands of the *servientes* of “the king,” with a similar note at the end ^c. These thanes and *servientes* were not exempted from feudal services for the lands described in the record; they might, it is true, select any lord they thought fit and place themselves under his protection, but they still continued in the humble situation of vassals, and liable to the performance of their accustomed services.

The officers of the king had great deference paid to them, and the meanest situation about

Aluuid puella 11 hid' quas potuit dare et vendere, cui voluit, et de dñca firma regis habuit ipsa diñ hidam, quam Godric vicecornes ei ccessit, quamdiu vicecomes esset, ut illa doceret filiam ejus aurifrisium operari. D. 149.

^a *Bedefordscire. Terra Nigelli de Albingi. In Siuuilessou tenet quædam concubina Nigelli 11 hid', hanc terram tenuit Æleric parvus Teignus regis E. D. 214.*

^b *Dorsetshire. Terræ tainonum regis—at the end is this memorandum, Omnes qui has terras T. R. E. teneb' poterant ire ad quem dominum volebant. D. 84. b.*

^c *Dorsetshire. Terræ servientium regis—at the end, Qui has terras teneb' T. R. E. poterant ire quo volebant. D. 85.*

the court entitled them to a high degree of pre-eminence. When Hardicnute sent persons to dig up the body of Harold, he appointed for that purpose Ælfric archbishop of York, Godwin the earl, Styr master of the household, Edric the steward, Trouhd his cook, and *others of high dignity*^a. The steward is often found as a witness to ancient charters, and so is the constable, treasurer, chamberlain, and butler^b. Ecgulf, the horse-thane, is in the Saxon Chronicle, under the year 897, ranked with the most noble thanes and wites^c, and Wulfric, who held a similar office, is described to be a *gerefa* of Wales^d. To a charter or compact made for the establishment of the monastery at Stow, Eger, Rauff and Lifing subscribed their names, adding after each, *stealres*, which in the Latin translation is rendered by the word *strator*^e, and therefore probably was

^a *Alfricum Eborancensem archiepiscopum, Godwinum comitem, Styr majorem domus, Edricum dispensatorem, Trouhd suum carnificem, et alios magnæ dignitatis viros, Londoniam misit (sc. rex Hardicanutus) et ipsius Haroldi corpus effodere, et in gromiam projicere jussit. Sim. Dun. 180. Hoveden, p. 251. b. relates the occurrence in nearly the same words. Du Cange, under the word *carnifex* in his Dictionary, says, *Galli magnum Cocum, li grand Queus, vocarunt. Its general meaning is an executioner or butcher. See Somner's Canterb. 248. 1 Mon. 1013.**

^b 1 Mon. 338, 410, 411.

^c C. S. 97.

^d C. S. 99.

^e 1 Mon. 263.

synonymous with horse-thane. In another place *Edgarus stallere* occurs ^a.

Among the king's thanes themselves, there must have been distinctly marked gradations of rank between the proud companions of the sovereign, and the humble freemen only just elevated above the slaves. In the Saxon Chronicle, under the year 897, mention is made of some of the most noble thanes who had died in the last three years, namely, Ceolmund the ealdorman, Beortulf the ealdorman, Wulfred the ealdorman, Ealhard the bishop, Eadulf the king's thane, Beorwulf the town gereffe, and Ecgulf the king's horse-thane, and many others truly most noble wites ^b. In Domesday-book Siward, a thane, is mentioned to have been a relation of king Edward the confessor. Among the thanes of Oxfordshire having land in Wallingford ^c, are enumerated Lanfranc archbishop of Canterbury, eorl Hugo, Walter Gifard, Robert de Olgi, Ilbert de Laci, &c.

^a 1 *Mon.* 238. The word *Stallare*, probably brought from England, was used in Norway for *stabularius*; it was known in Denmark in the time of Cnute, and so downwards. Bishops had their *stabularii*. 3 *Langebeck.* 156, note. Sir Roger Owen mentions, that in a MS. of Waltham abbey, *stallarius regis* is explained to be a standard-bearer to the king. *MSS. Harl.* 6606. p. 788. See *MSS. Harl.* 3776.

^b *C. S.* 97.

^c *D.* 56. b.

names which prove that the greatest subjects did not disdain the appellation.

Upon the death of king's thanes, distinguished by that title from their holding of offices under the crown, we may presume that most of the vacancies were filled up by the king, and the offices did not devolve upon the children of the former possessors by hereditary right. Whether such children, daughters as well as sons, continued to hold the rank, and enjoy many, if not all, of the privileges which had belonged to them during the lives of their fathers, and transmitted them to their posterity, must be left to conjecture ; if they did, thanes of this description must, in the later period of the Saxon power, have formed a considerable portion of the general population of the country.

The distinction between king's thanes and ordinary ones was strongly marked in the treaty made between king Ælfred and Guthrun, in which it was provided, that if a king's thane was accused of murder, he might purge himself by twelve king's thanes, but if a thane was accused who was of inferior rank ^a, he was to purge him-

^a *Si quis regis ministrum (kyninges thegn) homicidii incuset, si se purgare audeat, faciat hoc XII ministris regis (kyninges thegnum). Si quis autem ministrum (thegn) incuset, qui minoris cognationis sit, (bith læssa maga) quam*

self by eleven of his equals and one king's thane. This inferior thane is described in Saxon by the words *bith læssa maga*. "Maga" is generally used to express relations or kindred by blood or marriage, but here it cannot have that signification. *Læsse mage* is translated by Wilkins, in another place ^a, into *minus potens*, and we are led to conjecture that the expression here alludes to the connection of the inferior thane with his feudal lord, the king's thane holding immediately under the crown, and the other deriving his office and privileges from its grantee. We may obtain some information respecting the relative situation not only of these classes, but of the individuals composing them with each other, from the laws concerning heriots and reliefs, which have been fully stated in our second chapter, and to which we must now refer ^b. In the law of Henry the first, there copied, East Anglia is not mentioned, and of course, as it was included within the

regis minister, excuset se per xi sue æquales (his gelicena) et unum regis ministrum. Et ita in qualibet lite, quæ major est quatuor mancuses: Et si non audeat, solutio sit triplo major quam æstimata est. Wilk. 47.

It is observable that a stranger (a guest) was to clear himself by oath as a king's thane. *Advena se ipsum purget juramento in altari, uti regis thanus. Ll. Wight. Wilk. 12.*

^a Wilk. 144, ante, p. 88, note.

^b Ante, pp. 87. 89.

Danelege, its thanes would be bound to pay the same reliefs as others did where that law prevailed. Among the Danes the relief of a thane, having his own soc, was only three pounds, but his heriot, by the law of Cnute, was four pounds. In this law of Henry the first are mentioned, in Wessex and Mercia, the king's thanes nearest to him, and middle thanes ; and among the Danes, king's thanes of two ranks, the lowest having their own soc, the others a higher jurisdiction, and thanes possessing less power than either of them.

In the beginning of the Saxon law of Cnute, the highest class of king's thanes is described to be "him nihste," equivalent to "*ei proximus*," in the Latin law of Henry the first. Among the Danes, however, we find in the latter part of both these laws, that the king's thanes were separated into two distinct classes, viz. those who had their own socs, and those who, as expressed in the laws of Cnute, were further known (further cyththe hæbbe) to the king, or, as rendered into Latin in that of Henry the first, *apud regem promotiorem justitiam habeant*. The king's thanes among the Danes, of both classes, were invested with judicial power, and the distinction between them arose from the nature of their jurisdictions, whether confined to their own socs,

or including higher prerogatives, but in either case they were entitled to the name, rank, and privileges of king's thanes. We have no reason to suppose that the same law did not prevail in the rest of England, or that the king's thane nearest to him in Wessex, Mercia, and East Anglia did not include, with the king's thanes, who had their own socs, those also, who had more extended or more honourable jurisdictions. In this manner the varying descriptions may be reconciled, and the general division of thanes prevailing throughout England assumed to be into king's thanes, and thanes of inferior rank. The ordinary courts of the king in every part of England were those of the county and hundred, over each of which, in early times, an alderman presided^a, but there were inferior tribunals within these districts, in which justice was administered either by the king's gereffes, or by lords, or their gereffes, by virtue of grants derived mediately or immediately from the crown. The Saxon name for these districts I am unable to ascertain, but about the time of the Norman conquest they acquired, in conformity to the usage of the Continent, the appellation of manors. The usual operative words in the charters, by which

^a *Aldermannus hundredi.* *Ll. Hen.* 1. 91. *Wilk.* 280.

the crown created these jurisdictions were "soc" and "sac," and it may suffice to state here that, in their least extensive signification, they gave a grantee the right to hold a court of justice in a particular district, at which his tenants and socmen were bound to attend, and to appropriate to himself the profits of those courts, and some at least of the fines and forfeitures.

In the before-mentioned laws of Cnute it is observable, that although a difference is made between heriots rendered by king's thanes in Wessex, Mercia, and East Anglia, yet the heriots of the lowest thanes were the same among the Danes, i. e. throughout the whole Danelege. East Anglia and about one half of Mercia were included in the Danelege, and this distinction as to king's thanes induces a suspicion that there was some difference between those of Mercia and East Anglia, and those of that part of the kingdom which lay to the north of the Humber and Mersey, and formed the remainder of the Danelege. With respect to the middle thanes, mentioned in the beginning of the law, and the thanes, who had less and were more lowly connected, noticed in the latter part, we may presume, from their heriots being the same in every part of England, whether within

the Danelege or not, that they were the same persons, only described in different terms.

The third law of William the conqueror illustrates the nature of the grants of soc and sac, for, in the Danelege, if the grantee had incurred a forfeiture in the county court, he paid a fine of forty ors to the sheriff, but if another person not possessing such a franchise forfeited, he paid only thirty-two ors, of which the sheriff took ten for the use of the king, the successful party twelve, and the lord in whose limits he resided the remaining ten^a. Here it is assumed that the person possessing sac, soc, toll, tem, and infangtheif, had no lord between him and the king, but that whoever was not so distinguished must have one, to whom part of the forfeiture was to be paid. These privileges generally accompanied the grants of land to persons of distinguished rank, but they were not necessarily connected with land, for they might be, and very often were, separated from it and granted out to foreign lords. Hence it was

^a *Et de libero homine, qui habet sac et soc, et tol et tem et infangentheof et implacitatus fuerit et ad forisfacturam positus in comitatū, pertinet forisfactura ad opus vicecomitis XL oræ in Danelega, et de alio homine, qui ejusmodi libertatem non habet, oræ XXXII. De his XXXII oris habebit vicecomes ad usum regis oras decem, et is qui eum implacitaverit, habebit in remedium versus eum oras XII, et dominus in cuius finibus manserit X oras. Hæc est in Danelega. Wilk. 219.*

no uncommon thing for lords to enjoy with the soc of their own manors, that of many others, in which they had no land; and the larger the district over which their jurisdiction extended, and the more numerous their dependent manors, the greater would be their influence and power. But though the king granted to thanes the soc of their own lands, and even that of the lands of others, it was usual for him to reserve to himself many judicial rights, particularly some of the most important and profitable forfeitures. A list of these forfeitures in West Saxony and Mercia is given in the 12th law of Cnute, unless the king “chose to honour any one further and had “granted him some dignity^a.” And by the 14th law it appears that in the Danelege were made similar reservations, “unless he thought “fit to honour any one further^b.” The “fur-

^a *Hæc sunt jura quæ rex habet super omnes homines in Occiduis Saxonibus, hoc est super pacis violationem et irruptionem in domum, surreptionem, fugitivorum susceptionem et militiæ detrectatæ mulctam* (mundbryce et hamsocne, forstal et flymena fyrmthe, et fyrdwite), *nisi aliquem amplius honorari velit, et ipsi dignitatem quandam concedit*, (buton he hwæne furthor gemæthrian wille, and he him thæs weorthscipes geunne). *Ll. Cnuti. 12. Wilk. 135.*

^b *Et in Danelega rex habet mulctam pugniæ et militiæ detrectatæ mulctam et violatæ pacis ac irruptionis in domum* (fyhtewita, and fyrdwita and grythbrice and hamsocne)

“ther honour” mentioned in these laws must be the granting to a subject some or all of those forfeitures, which usually were reserved for the king himself, and made a principal part of his revenue, and thus we may be enabled to understand the expression of being “further known to him,” in the laws of Cnute, respecting heriots. That in the Danelege these words referred to the extent of the jurisdiction of the king’s thanes, is manifest from the context of the whole law taken together, for after mentioning king’s thanes who

nisi aliquem amplius honorare velit (butan he hwæne furthor gemæthrian wille. *Ll. Cnuti.* 14. Wilk. 135.

In 1035 Cnute, king of Denmark, in a charter to the church of St. Lawrence at Lunden (the metropolis of Scania) concludes, *quod autem ad regiam pertinet justitiam ex quacunque causa fiat de prenominata terra in potestate sit prepositi et cæterorum fratrum in hoc loco Deo servientium tribus culpis exceptis, &c.* 3 *Langebeck.* 427.

From the following extracts from Domesday-book it appears that Edward the confessor had three forfeitures throughout all England, and a similar reservation was made, at least in some counties, in favour of William the conqueror. *Sciropesberie*—*Qui vero pacem regis a vicecomite datam infringebat c solid’ emdab’ et tantund’ dabat qui forestel vel Heinfare faciebat. Has iii forisfacturas habeb’ in dñio rex E. in omni Anglia extra firmas.* D. 252.

At Hereford—*Rex vero habeb’ in suo dñio tres forisfacturas, hoc est, pacem suam infractam et heinfaram, et forestellum. Quicunque horum unum fecisset emdab’ c sol’ regi, cujuscunque hō fuisset.* D. 179.

had their own soc, that is, were lords of manors, a higher class is adverted to, more closely connected with the crown in the judicial power they possessed. That this is the true meaning of being "further known" to the crown, appears also from the corresponding law of Henry the first concerning reliefs, quoted before^a, for there king's thanes were divided into those who had their own soc, and those who had a more advanced jurisdiction^b, i. e. a more enlarged power in the administration of justice than was commonly delegated to subjects.

Persons, "having their sac and soc," were not confined to the Danelege, and in the laws of Edward the confessor the distinction is strongly

^a *Ante*, p. 90, note ^b.

^b King Edred, in 948, made a grant to the abbey of Croyland of the island of that name, for a glebe to their church, which, after describing its metes and bounds, goes on, *Quare volo, quod dicti monachi habeant prædia ista de donatione et confirmatione mea libera et soluta ab omni causa et onere seculari, et omnes libertates, et liberas consuetudines, cum omni illo, quod appellatur socha, sacha, tol et tem, infangthef, weif et stray et cum hiis legitime appendentibus in puram et perpetuam eleemosynam meam.* Then, after confirming the grants of other lands, are these words, *Et volo, quod dicti monachi sint quieti et soluti ab omni scotto, geldo, auxiliis vicecomitum, hydagro, et a secta in schiris, wapuntakis, hundredis, trichingis et omnimodis aliis curiis et seculi oneribus universis.* *Ingulph.* 498.

marked between lords having sac and soc, and lords not having them^a. Nor were reliefs payable only where the Danelege prevailed, for we are expressly told in Domesday-book that in Kent the king had reliefs from those who were so distinguished^b, and the possessors of soc and sac in the two lests of Sudtone and Ailesford are mentioned by name^c.

Among the West and East Saxons and Mercians the laws of Cnute exacted heriots, (as among the West Saxons and Mercians those of Henry the first did reliefs,) from the king's thanes, who were nearest to him, omitting to mention king's thanes having their own soc, who were noticed in the same laws, as well known within the Danelege.

^a *Et si homo alicujus domini sit, in cujus terra inventum est hoc, et dominus in cujus terra inventum est non habet consuetudines suas, scilicet sake et soke, omnia tradat præfecto hundredi (si habere voluerit) cum bonis testibus. Sed, si dominus habuerit consuetudines suas, in curia domini rectum teneatur.* Wilk. 203.

^b ——— *et de terris eorum habet relevamentum, qui habent suam sacram et socam.* D. 1.

^c In Kent.—*In lest de Sudtone et in lest de Ailesford habuer̃ isti sacham et socam, Brixi cilt. Adeloid de Elteham. Anschil de Becheham. Azor de Lesneis. Aluvinus (hor) Wluuard Wit. Ordinc de hortone. Esbern de cillesfelle. Leuenot de Sudtone. Edward de Estan. Vlestan et Leuric de Otrinberge. Osuuard de Nordstone. Edid' de Aisihotte. Alret de Ellinges.* D. 1. b.

It could not be intended to exempt king's thanes of this latter description among the Saxons and Mercians entirely from heriots and reliefs, and in Kent we know that they were not exempted. The only mode of reconciling the two branches of these laws is, by construing the words "nearest to him" to include every holder of his own soc, and consequently we must presume that throughout the whole of England, except the Danelege, all the king's thanes indiscriminately, paid the same heriots and reliefs.

Though the description of persons having soc and sac of their own lands was not confined to the Danelege, it seems to have been most prevalent within it, for, besides Kent, there is no county mentioned in Domesday-book in which we find a list of them regularly made out except Yorkshire, Nottinghamshire, and Lincolnshire, all of which were governed by that law. These lists are curious, because they record the names of the principal landholders in the respective counties before the conquest, and afford a good criterion to judge of the extent of the alteration made in the possession of real property by that great event. Under the description in question were included, not only religious persons and houses, as archbishops and bishops, and abbeys,

but lay persons of the highest rank, as queen Eddeva, eorls, officers of the crown, and others. In Lincolnshire the names of the religious houses and persons, and laity, who had soc and sac are mentioned, and among them are the great abbies of Burg, Ramsey, and Croyland, with queen Eddeva and the eorls Harold, Morcar, Waltheof and Ralph^a. Hence we infer that this description was not confined to mere lords of manors, but, in a more comprehensive signification, might include even those who were furthest known to the king, and enjoyed the highest privileges and jurisdiction, for such was the case with regard, at least, to the three abbies just mentioned. In Yorkshire, among those who had soc and sac, no religious houses or persons are noticed, but laymen only, including some of the highest rank, as the eorls Harold, Edwin, and Morcar, and their

^a Lincolnshire.—*Hic notantur qui habuerunt in Lincolne-scire socam et sacam, et tol et thaim. Eps Lincolie. Eddid' regina. Abb de Burg. Abb de Ramesey. Abb de Croiland. Haroldus (com). Morcar (com). Waltes (com). Radulf (com). Vlffenisc. Merlesuen. Turgot. Tochi (f. Outi). Stori. Radulfus (stalrel). Siuuard barn. Harold (stalre). Fyach. Rolf. f. Sceldeware. Godricus (f. Toruort). Achi f. Siuuardi et Wilac fr ejus sup trā patris eorum. Leuine (f. Aluine). Azer (f. Sualeucæ). Ailric (f. Marsete). Outi (f. Azer). Adestan (f. Godran). Tori (f. Rold). Toli (f. Alfi). Azer (f. Burg). Wluuard (uure). Vlf. Haminc. Bardi. Suan (f. Suaue). D. 337.*

privileges in this county were of a very confined nature, not even releasing them from the ordinary jurisdiction of the king's courts, for their forfeitures are expressly stated to be payable to the king and eorl, of course they must have been amenable to the county courts^a. In Nottinghamshire the archbishop of York had not only the usual privileges of soc and sac, and tol and thaim over all his own manors, but the two pennies or parts of all profits arising to the king from his courts of justice within the county. Vlffenisc, had the same privileges over his land, and so had some others, but several had them over a part only of their possessions, and the archbishop, Vlffenisc, and the countess Godeve, alone were exempted from paying to the eorl the third penny^b.

^a Yorkshire.—*Hi habuer̃ socam, et sacam, et tol, et thaim, et omnes consuetudines. Harold (com̃). Merlesuen. Vlffenisc. Turgod laḡ. Tochi f. otta. Eduiñ et Morcar̃ sup̃ terram Ingold' tantum. Gamel f. Osberti, sup̃ Cotingeham tant̃. Copsi sup̃ Cucualt tant̃ et Cnut. Ex his qui forisfecit nemini emendavit nisi regi et com̃. D. 298. b.*

^b Nottinghamshire.—*Hi notantur qui habuer̃ socam, et sacam, et thol, et thaim, et consuetudinem regis II denariorum. Archieps Eboraḡ sup̃ maneria sua, et Godeva comitissa sup̃ Neuuercam wapent̃, et Vlffenisc sup̃ trā suā. Abb̃ de Burg super Colingeham. Abb̃ de Bertune. Hugo (com̃) super Marcheton. Eps de Cestre. Tochi. Suen f. Suaue. Siuuard (bar̃n). Azor f. Saleuæ. Vlfric (cilt). Elfi Jllinge. Leuuiñ*

It may be proper to mention here, as connected with this part of our subject, a distinction prevailing in the counties of York^a, and Nottingham and Derby^b, with respect to king's thanes, which does not appear to have extended through other parts of the kingdom, but as all these counties lay within the Danelege, it may have been generally known within its limits^c. In these counties

f. Aluuiñ. Elueua comitissa. Goda comitissa. Elfi. Caschin. sup̄ Werchessope, Henriç de ferrar sup̄ Ednodestune, et Dubrige et Breilesfordham. Walter de Aincurt super Granebi et Mortune et Pinnesleig. Horum omnium nemo habere potuit tciū denarium comitis, nisi ejus concessu, et hoc q̄diu, viveret p̄ter archiep̄m, et Vlffenisc, et Godeve commitissam. D. 280. b.

^a *Relevationem terrarum dant solūm regis illi taini, qui plusquam VI maneria habuerint. Relevatio est VIII lib. Si vero VI tant̄ man̄ vel minus habuerit: vicecomiti pro relevatione dat III mark' argenti. Burgenses autem Eborace civit̄ non dant relevationem. D. 298. b.*

^b *Tainus habens plusquam 6 maneria non dat terræ relevationem, nisi regi tantum 8 lib. Si habet 6 tantum vel minus vicecomiti dat relevationem 3 markas argenti, ubicunque maneat in burgo vel extra. Si tainus, habens sacam et socam, forisfecerit terram suam; int̄ regem et comitem habent medietatem trā ejus, atque pecuniæ, et legalis uxor cum legitimis hæredibus, si fuerint, hñt aliam medietatem. D. 280. b.*

^c In the year 999 Ucthred, upon his appointment to be earl of Northumberland, in room of his father Waltheof, then old and feeble, dismissed his wife, daughter of Aldune, bishop of Durham, but because he cast her off

every thane, possessing more than six manors, was obliged to pay to the king eight pounds for a relief, but if he had only six manors or a smaller number, his relief was rated at three marcs, to be paid to the sheriff. The thanes included in the first of these classes must have been thanes of the king, for their reliefs were to be paid immediately to him, and we are not authorised to conclude that those who composed the second were not of the same description, for though their reliefs were to be paid to the sheriff, he might receive them as he did other sums of money, for the use of the crown, and account for them afterwards.

The concluding part of the entry respecting Nottinghamshire and Derbyshire, which has been quoted in the last page, merits attention, for it states that if a thane, having sac and soc, forfeited his land, one half of it and of the live stock upon it went to the king and the sheriff, the other half to his wife and heirs, if he had any. There is no allusion to the number of manors to be held by this thane, whether six, or more or less, but if he had the soc and sac of any land

contrary to his promise, he surrendered to the church six manors which the bishop her father had given with her, and married Sigen. *Sim. Dunelm.* 79.

he was within the scope of this law. In like manner we may be authorized to apply the similar description, found in the laws of Cnute and Henry the first, to all thanes, who had sac and soc, whatever the number of manors they possessed might be.

The king's thanes, whether they derived that title from their attendance upon the king or his court, or from being his delegates in the administration of justice, were dispersed all over the kingdom. In their body was comprehended most of the great landholders, enjoying their extensive possessions chiefly under grants from the crown, but some by descent from their ancestors, or by mortgage, gift, or purchase. The laws of king Edgar enacted, that in every burg and shire his thanes should enjoy their offices in his time as they had them in his father's^a. From this law it might be too much to infer that their offices were not hereditary, but we may collect that the thanes of the king were found in every burg and shire, and that the offices which conferred the title were locally situated within them. In the year 656 king Wulfer, for the consecration of the

^a *Et in qualibet urbe (byrig), ac in qualibet provincia (scyre) prout pater meus habuit, et thani mei sua habeat (heora scipe) meis temporibus, uti patris mei tempore habebant.* Wilk. 80.

abbey of Medeshamstede, summoned throughout the nation all his thanes, the archbishop, bishops, his eorls, and all who loved God, to assemble there, and among those who attended were Wilfred the priest, and all the king's thanes, as many at least as were in his kingdom. When the ceremony was over, the king rose and addressed all his thanes, and announced the territories and privileges he bestowed upon the abbey, and then he and all present signed a charter. After the king and persons of royal blood had signed it the clergy subscribed, and after the abbot five ealdormen are named and described, and then come five more signatures, but without any addition, and it is said that many others, who were all the king's "theowest men," (*regis optimates*) confirmed it ^a.

Æthelstan commanded his bishops, his ealdormen, and his gerefas, to enforce obedience to his laws, on pain of every gerefas losing his office and forfeiting a hundred and twenty shillings, and every one of his thanes, who had lands and would not administer justice according to them, was to forfeit sixty shillings ^b. Here it is taken

^a C. S. 35.

^b *Rex Æthelstanus præcepi episcopis meis, et præpositis, ac præfectis meis* (and his bisceopum, and his ealdermannum,

for granted that every king's thane possessed of lands had power to administer justice, and it is observable, that the fine imposed upon the king's gerefa was the double of that paid by the king's thane.

It was usual for the grants of the crown, either of lands or judicial power, especially the latter, to be addressed to the eorls, sheriffs, and king's thanes, that is, to all persons connected with the administration of justice immediately under the crown, in the shires in which the lands lay. A charter of Edward the confessor to Giso, then bishop of Wells, began thus, "Edward king, " gret Harold erl, & Tovid mine schyrerefen, & " alle meine theines inne Somersæten ^a." Harold, when king, confirmed the grant, in another directed to " Alnod & Tovid, & alle mine " theines in Somerseten ^b," commanding them to assist him to establish his Christian and God's

and his gerefum eallum), &c. *tunc perdat præpositus præposituram suam* (gerefa buton his folgode) *et amicitiam meam, et det mihi 120 solidos, et dimidium hujus omnis thanus meus, qui terras habeat, et justitiam servare nolit, ita uti ego præcepi.* *Jud. Civ. Lund. Wilk. 69.*

^a 1 *Hickes. Thes. 161.* And in the same page are three others of a similar description. See also *Ib. 141, 159,* and *MSS. Cotton. Claud. C. 9, p. 132.*

^b 1 *Hickes. Thes. 162.*

rights, and prohibiting them from doing any unlawful deed to hurt him. This document informs us that the king had thanes in Somersetshire, who might, in their official capacities, assist or obstruct the enjoyment of his grant of judicial power, including soc and sac, to the bishop. William the conqueror also granted a charter directed to Herman the bishop, and Britwi, and Stewin, “ & alle mine thegena in Dorsetshire^a.”

There are also other grants, which even more strongly prove that the king's thanes were very numerous in all the counties of England. Edward announced that he had granted privileges to the abbey of Abingdon by a charter addressed to “ his bishops, abbots, heorlas, and theinas,” not in a particular county, but in all those shires where the abbey had any land^b. And another of William the conqueror in favour of the church of St. Augustine at Canterbury, was directed

^a *Spelm. Gloss. voce Thanus.* See 1 *Hickes. Thes.* 137. for another grant, beginning—“ Ic Willæm ciningæ græt “ wælcæme biscop & hugæn de port & Eadward scir gæ- “ ræfan and eallæ his thegnas on Hæmpton & on Wilton “ scire freondliche,” &c. Two other similar instruments of William the conqueror are mentioned in the General Introduction to Domesday-book, xiv.

^b *MSS. Cotton. Claud. C. 9,* 130.

“ to mine biscopes, & mina eorlas, & ealle
 “ mine thegnas, Frencisce and Englisce, on tham
 “ scyran wer Scūs Augustinus, hefd land inne
 “ Freonlice,” and granted sake and sockne, and
 other privileges “ on strande and on streame,”
 and ^a over as many thanes as he had granted to
 them before.

A charter in Saxon of Henry the first, addressed to all his bishops, eorls, sheriffs, and thanes, French and English, in those counties in which William the archbishop and the church of Christ in Canterbury had lands, enumerated and confirmed the privileges, which had been granted to them by Edward the confessor, William the conqueror, or himself, over their own men, within burghs and without, and over *as many thanes as he had granted to them*^b. The

^a The expression used is, “ over swa fele thegna sua ic heom to ge letten habbe.” 1 *Hickes. Thes. Pref.* xv. where are nearly similar grants to the same religious house by the kings Henry the first and second.

^b *Charta. Henri. 1.*—*H. Dei gratia Anglorum rex saluto omnes meos episcopos et omnes meos comites, et omnes meos vicecomites, et omnes meos thanos, Francos et Anglos, in istis comitatibus, quibus Willelmus archiepiscopus et conventus apud Christi ecclesiam in Cantuaria habent terras in, amicaliter. Et notum facio vobis quod eis concessi, ut sint singularum terrarum digni quas habuerunt in Eadwardi regis tempore mei cognati, et in Willelmi regis tempore mei patris,*

two last documents prove not only the general distribution of king's thanes throughout the kingdom, but that they might be transferred from the crown to subjects.

The king's thanes, whether in performance of the duties of their respective offices, or of the services annexed to their lands, are frequently mentioned by historians as active in military operations, and occasionally assembled in considerable numbers, so that we may conclude they and their retainers formed a great part of the royal army.

One of the most distinguishing privileges of a king's thane was, that no subject was permitted to have any jurisdiction over him ; if he committed a crime he was amenable to no courts but those of the king, for there only could he meet his peers. This was expressly provided for

et socam et sacam, in terra et in aqua, in silvis et in campis, tolnetum et team, grithbrecam, et hamsocnam, foresteallum, et infangthief ; et in fugitivorum receptionem (flæmene fermthe) super eorum proprios homines (there agene mæn) intra burgos et extra, tam plenè et tam directè, quam mei proprii ministri (wicnæres) ipsum exquirere deberent et super tam multos thanorum quot ego eis concessi (and ofer swa fela thegena swa ic heom to gelæten habbe) ; et nolo ut aliquis homo (man) aliquem rem ibi introducat, nisi ipsi et eorum ministri (wicneres) quibus ipsi id committere voluerint, nec Francus, nec Anglus propterea quod ego, &c. Lye's Saxon Dict. App. Chartæ N° 6.

by the laws of king Ethelred^a, and was a circumstance which contributed much to exalt the dignity and consequence of the order. This rendered them in a great degree independent of each other, and offices about the court were sought with avidity, as affording the best protection to vassals against the feudal tyranny of their lords.

It has been noticed before, that in Domesday-book the general appellation of thanes, without any addition, is used occasionally for king's thanes, and the observation applies to the works of most of our historians. This has been productive of much confusion, and greatly increases the difficulty of tracing with precision the line of separation between these two ranks of nobility. The title ofthane, and many privileges, appear to have been common to both, but the king'sthane, probably, was distinguished by some privileges to which the commonthane had no pretensions.

That the title ofthane was given indiscriminately to all persons invested with judicial authority under the crown, there is certainly very strong evidence to prove, but whether the deno-

^a *Et nemo immunitatem aliquam (thane socne) habeat super regis thanum præter regem ipsum. Ll. Æthelr. Wilk. 118.*

mination was used synonymously with king's thane must, after all, be left to conjecture.

The earliest document, which we are able to produce in proof that the title of thane was given to lords having soc and sac, is the first law of Æthelstan. If a lord either permitted one of his men to escape with impunity after he had committed a crime, or charged him with one when he knew him to be innocent, he was in the first case to pay a hundred and twenty shillings to the king, and in the second the culprit was to clear himself in the folcgemote, and might chuse a lord where he pleased. If any gerefa (evidently meaning of a court of the king) neglected his duty in this respect he was to be punished, and if it was a thane who was guilty of such neglect he incurred similar penalties^a. In other words, whether the court

^a *Si quis alterius servum (man) suscepit (under fo.) quem ob scelus suum dimittit, et delictum illius corrigere nequit, solvat ille quem prius sequebatur (ær folgode) et solvat regi 120 solidos. Si dominus (sc. hlaford) tunc velit illum injuste perdere crimen diluat, si possit, in conventu populi (on folcgemote): Et si innocens sit quærat in testimonio dominum sibi, quem velit, quoniam volo ut quilibet eorum, qui innocens est, serviat cuicunque velit domino. Et quilibet præfectus (gerefa), qui hoc negligit et curare non vult, solvat regi pro contumacia sua, si hoc pernoscatur cum veritate, et ille se purgare nequeat. Et quilibet præfectus qui mercedem capit et alterius jus ideo pervertit, solvat regi pro contumacia sua (kynges ofer-*

belonged to the king or a subject the rule of law was the same. And, in the description either of gerefas or thanes, all those who presided over the ordinary administration of justice were included.

A law of Eadgar before-mentioned, claimed for him in every shire the judicial power his father had possessed, and that his thanes also should have their scipes or offices as they had been used in his father's time^a. This law may serve to explain a subsequent one of the same king, whereby it was enacted, that if any one gave an unjust judgment, besides other penalties he should lose his thaneship, which (as his being athane had not been mentioned before) implies that every person who was in a situation to judge unjustly, was one^b. The same general

hyrnysse) et pro ignominia, sicut diximus. Et si sit thanus, qui hoc facit, idem sit. Et nominentur in cujuslibet præfecti ditione (gerefan manunge) tot homines, quot noscuntur esse credibiles, ut sint in testimonio cujuslibet litis. Et sint juramenta credibilium illorum hominum pro pecuniæ valore absque electione. Ll. Æthelst. 1. Wilk. 62.

^a Ante, p. 157, note^a.

^b Judex qui alicui injustum judicium judicat, solvat regi centum viginti solidos, compensationis loco, nisi juramento confirmare audeat, quod rectius judicare nescivit et perdat thani sui dignitatem (his thegnscipes) in perpetuum, nisi postea a rege impetret quomodo placere possit. Et mittat

description of such offender is given in the laws of Cnute, whereby in Englalaga he not only lost his thaneship, but also paid the value of his were, with a fine proportioned to his situation, whether amenable to the court of the king, the eorl, or the hundred. If the first, he paid a hundred and twenty shillings, if the second, sixty shillings, and if the third, thirty shillings^a. By the loss of

provinciae illius episcopus compensationem ad regis manum.
Ll. Eadg. c. 4. Wilk. 77.

^a *Rex multas pacis violatae in regionibus dacorum accipiat. Et in Danelaga rex habet mulctam pugnae et militiae detrectatae mulctam, et violatae pacis ac irruptionis in domum, nisi aliquem amplius honorari velit. Et si quis tunc pace exclusum hominem servet, vel fugitivum hospitio excipiat, compensat prouti lex antea fuerat. Et quis injustitiam committat, vel injustum judicium deinde judicet, pro laesione vel pro pecuniae susceptione sit apud regem capitis aestimationis reus in Englalaga, nisi juramento confirmare audeat, quod justius aliquod nesciret; et perdat semper thani dignitatem (his thegenscypes) nisi a rege postea redimat, et ille hoc modo ei favere velit, et in Danelaga violatae legis mulcta dignus est, nisi seipsum purget quod melius nesciret. Et si quis justam legem et justum judicium dare detrectaverit, reus sit apud eos, ad quos pertinet: si apud regem 120 solidos, et si apud comitem 60 solidos, si apud centuriam 30 solidos, sic apud quemlibet eorum, si in Englalaga ita dignum fuerit. Et si quis in Danelaga justam legem infregerit, solvat legis violatae mulctam. Ll. Cnuti. 12. Wilk. 135.*

Some words at the conclusion of this law seem not to be translated accurately; they are "swa with ælc thæra, gif hit swa geweordeth on Engalage," and, literally trans-

his thaneship might be meant his removal from the office of judge, but it might also refer to the loss of his rank, and that it did so may be inferred from a quotation made in a former page from the *Textus Roffensis*, in which to be worthy of the honour of nobility is said to be equivalent to the English expression of being thegenscipes wurthe. This explanation is further confirmed

lated, may be “so with each there, if it was so done in Englalage.” That the lowest fine of thirty shillings was to extend to all the inferior courts of justice within the hundred is apparent from the 41st law of William the conqueror, which re-enacts that of Cnute, and the words in old French are, “si co est en hundred xxx sols & envers
“ touz f. cons ki curt unt en Engleterre, ceo est al sols
“ Engleis.”

De placito tractando injusto judicio. Si quis ira vel odio, vel timore, vel amore, vel cupiditate, vel quoquo respectu judicium injustum judicet, vel utlagam constituat centum viginti solid' culpa sit thegenscypes (or in some MSS. honore) et omni judiciaria dignitate privatur, nisi se erga regem redimat, sicut in ejus miserecordia erit. Ll. Hen. 34. Wilk. 249. Wilkins remarks that the word “thegenscypes,” in an enlarged sense, means judicial dignity, and therefore, to avoid tautology, is omitted in some of the MS. copies of these laws; and he thinks the true reading may be thegenscypes, i. e. *omni judiciaria dignitate privetur*. It may be added, that in the Howard MS. the word “honore” is omitted, and the text stands *et thegenscypes et omni judiciaria dignitate, &c.* By the 10th law of Henry the first it was provided, “*Qui injuste judicabit cxx solid' reus sit, et dignitatem judicandi perdat, nisi se redimat erga regem.*” Wilk. 144.

by the 34th law of king Henry the first, which enacted, that every judge giving an unjust judgment should pay a fine of a hundred and twenty shillings, and lose not only his thaneship and honour, but also all judicial dignity. Probably the loss of one was necessarily followed by the loss of the other.

The 38th law of Henry the first provided, that if a man committed scyldwite, not in a burg or court, he was to pay to the king and thanes the penal sum of thirty shillings^a. Though the signification of the word scyldwite is not precisely known, yet it is clearly used here as a description of an offence, and from its termination we may conclude it meant a wite or penalty to be paid to the municipal lord of the district, and consequently thanes could be entitled to receive it, only because the profits of the courts of justice belonged to them.

Many instances occur in laws and other public documents, in which thanes have been alluded to as the only lords of lands. He who withheld tythes was punishable, as well by laws made in the reign of Æthelred, as by others of king Ælfred, whether he was the vassal of the king

^a *Si scyldwita extra burgum et curiam fiat, 30 sol' emendetur. Regi et thanis, nisi, &c. Ll. Hen. 1. 38. Wilk. 250.*

or a thane^a. And William the conqueror commanded Peter-pence to be paid not only by his own vassals, but by all thanes and their vassals within a particular district^b.

Mundbreche, and blodwite and wudhew, committed out of parks or forests, were to be punished by a general levy of five marcs, to be paid to the king and thanes^c, implying that to the king and them only, belonged those forfeitures.

Edward the confessor, in a charter to the church of Christ at Canterbury, granted land and confirmed whatever land had been given before, whether it was of the gift of the king, of bishops, eorls, or thanes, evidently assuming that nobody else could have presented any^d.

^a *Sive sit regis sive thani minister* (man). Wilk. 144. *Liber Const. temp Æthelredi*—a similar provision. *Ll. Cnuti*. 8. Wilk. 130.

^b In a writ to William de Curtello—"and ic bidde the that thu do that this rom-feoh forth cum of minan mann & syth-than ælchene thegene & hire mannum æt thisse Michaelis Massen bifullan wite & tan cýthe this to Montachut and Bristowe." 1 *Hickes. Thes.* 164.

^c *Mundbreche, et blodwita, et wudhew, præter parcum et forestam communi emendatione componuntur regi et thanis, i. quinque mancæ.* *Ll. Hen.* 1. 37. Wilk. 250.

^d Eadwerd gave to Christ's church, for his soul, certain lands at Tertham, "and ic wille thæt ælc thara landa be on mines fæder, dæge læg into cristes cýrcean, wære hic kynges

In Arcenefeld, if any one killed the man or homager of a thane, he was to pay ten shillings to the lord of the deceased ^a, which shews that a thane and a lord were the same.

That the title of Thane was given to persons invested with judicial authority, may be collected from the entries in Domesday-book respecting the district, which now forms the county of Lancaster, connected with other documents. The state of the northern parts of the kingdom in the time of the Anglo-Saxons, is described by our historians as most wild and barbarous. Higden, in his Polychronicon, written so late as in the reign of Edward the third, says the language of all Northumberland, especially Yorkshire, was so uncouth and strange to the southern inhabitants of England that they could scarcely understand it, and the regal authority so little respected that when the kings visited those remote countries they were obliged to take with them strong escorts ^b.

gift, wære hic bisceopes, wære hic eorles, wære hic thegenas, eac ic will thæt ælces mannes gift stande." MSS. Claud. A. 3. pp. 5, 6.

^a Arcenefelde—*Si alicujus taini hoēm occiderit: dat x sol' dño hoīs mortui.* D. 179.

^b *Tota lingua Northumbrorum, maxime in Eboraco, ita stridet incondito, quod nos Australes eam vix intelligere possumus, quod puto propter viciniam barbarorum contigisse, et*

The province of Chester, consisting of three districts, lay in so remote a part of the kingdom that it was not approached by the Normans after the conquest, and on account of its wild and barbarous state remained unsubdued by them ^a.

The miserable situation of the district lying in and near to Blackburnshire, Rochdale, Tottington, and Boland, before the conquest, is described in a manuscript account of the abbey of Furness, copied in Dugdale's *Monasticon*^b. That now most populous district was almost inaccessible, infested by great numbers of wolves, and its inhabitants so thinly scattered, uncivilized, and

etiam propter jugem remotiorem regum Anglorum ab illis partibus, qui magis Austrum diversati; si quando Boreales partes adeunt non nisi magno auxiliatorum manu pergunt. Hig. Polychr. 3. Gale. 211.

^a *Propter longinquitatem Normannis inaccessa, et propter barbariem impacata.* N. B. This was after the conquest.
² *Ang. Sac. 256.*

^b 1 Mon. 899.—*Populus illarum partium tam rarus fuerit, tamque indomitus et silvestris, tanta insuper vulpium, et ferarum nocivarum ibidem existerat multitudo, necnon locus, quasi hominibus inaccessibilis, adeo videbatur quod tam episcopi ejusdem loci qui pro tempore fuerant, quam ipsorum officiales totam jurisdictionem ordinariorum parochiæ supradictæ, pertinentem ad officium communium decanorum præfatis rectoribus, propter incommoditates prælibatas, penitus reliquerunt, et quasi jugiter commiserant, causis difficilioribus et arduis duntaxat episcopo reservatis.*

ungovernable, that the bishops abstained from the exercise of ordinary ecclesiastical jurisdiction over the church of Whalley, whose rector usurped the title of dean, and the churches of Blackburn, Chipping and Bolland, which were the only ecclesiastical buildings within this very extensive district ; while their rectors assumed to be lords of the lands and vills in which the churches were situated, and held them as if they were their own inheritances. Even when Domesday-book was compiled we have reason to suppose this country remained in the same barbarous and depopulated state. In the year 1069 William the conqueror marched with an army into Northumberland, which had been recently wasted by Harold, and destroyed with sword and fire the counties of York and Durham, and so dreadful and complete was the havock made, that for nine years afterwards there was not a single inhabited village within his line of march, but the country was rendered entirely desolate, and overrun by wild beasts and robbers^a. These considerations

^a 1069.—*Willelmus exercitu conscripto in Northumbriam properavit: eamque ferro et flammis adeo devastavit ut in solitudinem redegerit: totaque regis Eboracum et Dunelmum interjacens nusquam inhabitâ villâ, per 9 annos bestiarum et latronum latibulis solummodo vacaret. Hist. de Episcopis Dunelm. 1 Ang. Sac. 702. So Hoveden. 258.b.*

may assist to account for the extraordinary circumstances of the counties of Northumberland and Durham not being described at all in the Survey, and of Lancashire, Cumberland, and Westmorland not being named; though Furness and the northern part of Lancashire, with the south of Westmorland and part of Cumberland, are included in the west riding of Yorkshire, and that part of Lancashire which lies between the Ribble and the Mersey, containing six hundreds, and divided into a hundred and eighty manors, is subjoined to Cheshire^a. The truth of the statement made in a preceding page, of the miserable situation of the ecclesiastical concerns of Lancashire, receives some confirmation from there not being a single church mentioned in Domesday-book as existing upon any of the lands within it^b, except three in Amounderness. Selden thinks that Lancashire was not formed into a county and honoured with a name till Henry the third made his youngest son, Edmund Crookback, earl of it^c. At the time

^a General Introduction to Domesday-book. XI. XII.

^b Ibid. xci. But it was not singular in this respect, for in neither Cornwall nor Middlesex is a church mentioned.

^c 3 Selden's Works. 1839. He gives this reason for his opinion, that "in one of our old year-books a learned judge affirms that, in this Henry's time, was the first sheriff's turn held there." 17 Ed. 3. 56. b.

of the Survey it was disfigured by morasses and forests, and the greatest part of it lay waste and uncultivated. Of sixty villas or manors dependent upon Preston, and adjoining to or connected with Blackburnshire, just mentioned, sixteen are particularly noticed to have had but few inhabitants, and the number of them unknown^a, and the remainder are stated to be waste. From the *Monasticon* we learn that before the conquest there was a general ignorance as to the district including Blackburnshire, Rochdale, Tottington, Bolland^b, and the adjoining parts, but the commonly received opinion was, that the superiority of no mesne lord was acknowledged, there being as many independent lords as there

^a *Terra regis Eurvicscire, Agemundreness. In Prestune comes Tosti 6 car̄ ad' geld'. Ibi pertinent hē terræ. Estun and sixty other places are mentioned. Omnes hæ villæ jacent ad Prestune et III ecclesiæ. Ex his XVI a paucis incoluntur, et quot sint habitantes ignoratur. Reliqua sunt Wasta. Roḡ Picl̄ habuit. D. 301. b.*

^b *Quis autem dominium de Blagborneshire tenebat ante tempus dicti regis Willielmi sub certo in cronicis non habetur. Vulgaris opinio tenet, et asserit quod quot fuerant villæ vel mansæ, seu maneria hominum, tot fuerant domini, nedum in Blagborneshire, verum etiam in Rachdale, Tottington, et Boland, et toto convicinio adjacente, quorum nullus de alio tenebat, sed omnes in capite de ipso domino rege. Villæ, in this passage, is evidently used synonymously with mansæ and maneria, for the habitations of single families or households. 1 Mon. 899.*

were villas or mansions, none holding of any other, but all being tenants *in capité* of the king. Domesday-book further states that, at a still more recent period of time, no material alteration had taken place, and the portion of land which had been rendered fit for cultivation either remained in the hands of the king, or was parcelled out among his vassals, each enjoying over his own land manorial rights and privileges, but rendering to the crown the most base and uncertain services, such as villans were in general bound to perform. They were thanes of the king, because they held the socs of their own lands *in capité* immediately under him, which, as we have shewn before, was one distinguishing characteristic of a king's thane in the Danelege, but they were also in fact villans, not indeed from their being attached to the demesnes of the crown, but by service.

The district lying between the Ribble and Mersey, together with Wirhall in the county of Chester, belonged in the time of king Æthelred to Wulfric Spot, not only his relation but his thane. He by will devised all the lands lying within those districts to Ælfhelm and Wulfage, to be divided equally between them, but if either was desirous to possess his share in severalty, he was at liberty

so to hold it, but only upon condition that when there was a taking of fishes, there should be given by the devisees jointly to the abbey, which the testator had founded at Burton, three thousand skates^a. The trifling value of these extensive tracts at that time, may be inferred from the nature of this reservation. It seems from the entries in Domesday-book that the greater part, if not the whole of the district between the Ribble and the Mersey, was in the hands of Edward the confessor. Roger of Poictou afterwards had a grant of it, but when Domesday-book was compiled it had reverted to the crown^b. Soon afterwards William gave the lordship paramount of the manors or lordships mentioned before, to Ilbert de Lacy, one of those warriors

^a *Do Ælfhelme et Wulfago—terrarum illarum inter Ribbel et Mæerse* (Ic genne Ælfhelme and Wulfage thæra landa betwyn Ribbel and Maerse), *et in Wirhall ut ipsi distribuant. inter se maxima, qua possint, æqualitate, nisi eorum uterque suam propriam habere malit* (his agen habben wille), *ea lege ut quando ad squatinas capiendas itum fuerit uterque det tria squatarum millia loco illi apud Byrtune* (on that gerad thonne sceaddgence sy that heora æghter sýlle III thousand sceadda into thære stowe æt Byrtune). In the margin are these words, *vel squatarum capiendar. tempore adveniente.* 1 Mon. 266, 267.

^b *Terram inter Ripe et Mersham tenuit Rogerius pictav, modo tenet rex.* D. 263.

who had accompanied him from Normandy, and the district in which they were included formed the lordship or jurisdiction of Blackburnshire, and descended to his posterity^a.

Edward the confessor possessed the manor of Derby as his demesne, but the greatest part of the land in the hundred of that name was in the tenure of thanes. From Domesday-book it appears, that *all these thanes* were by custom obliged to render two ors for every carucate of land, and, for customary services, to work with all belonging to them at the building of the king's houses, as villans would have been bound to do, and in like manner in the erecting of fisheries, and in the woods at the hayes and stations, and whosoever did not go when his duty required, forfeited two shillings, and worked until the business was finished. Moreover, each of them was bound on one day in August to send his reapers to cut the king's corn, under

^a In the book of the abbey of Kirkstall, 1 Mon. 859, is the following paragraph:—*Post conquestum autem in unum dominium omnia sunt redacta: quod quidem dominium de Blackburnshire præfatus Willielmus rex conquestor dedit cuidam Ilberto de Lacy militi, qui secum venerat de Normannia in conquestu suo cum dominio et honore de Pontefracto, et alias terras multas hæredibus suis jure hæreditario possidendas.*

the like penalty^a. In the hundred of Newton, in the same county, all the *homines liberi* (here put for thanes,) except two, were bound to the same services as the *homines* (who are before called thanes) of Derby, with this addition, that they were to reap two days in August instead of one^b. The men of the manors of Lailand and Salford, in the same county, were not bound to work at the king's hall or to reap in August, and they were obliged to make only one haye in the wood^c.

That the thanes here mentioned were really of that rank there is no reason to doubt. Most of them are expressly described not only to be thanes, but to hold their possessions as distinct

^a *Omnes isti taini* (in Derby hundred) *habuerunt consuetud' redde II oras denarioꝝ de unaquaque caruc' terræ et facieb' pro consuetud' domos regis, et quæ ibi pertineb' sic villi et piscarias, et in sylva haias, et stabilituras, et qui ad hæc non ibat, qdō debet II sol' emendab', et postea ad op' venieb' et opabat donec p̄fect. erat. Unusquisque eorum uno die in Augusto mitteb' messorēs suos secare segetes regis, si non p̄ II sol' emendabat. D. 269. b.*

^b In Newton hundred—*hōes libi, p̄ter II erant in eadem consuetud' quas hōes Derbericæ, et plus illis II diebus in Augusto metebant in culturis regis, &c. Ib.*

^c *Homines hujus manerii* (Lailand), *et de Salford non opabant p̄ consuetud' ad aulam regis, neq̄ metebant in Augusto. Tantumodo I haia in sylva facieb'. D. 270.*

manors. They were very numerous, compared with the general population of the country, for to Blackburn hundred or manor is said to have belonged twenty-eight *liberi homines*, holding so much land for twenty-eight manors, and to Salford hundred or manor belonged twenty-one berwites, held by so many thanes for a like number of manors. To Lailand manor belonged twelve carucates, which twelve *liberi homines* held as twelve manors, and in the six hundreds of Derby, Newton, Walton, Blackburne, Salford, and Lailand, the total number of manors is stated to be one hundred and eighty-eight^a, paying geld only as for seventy-nine hides. Besides these thanes the landholders must have been very few, for in Derby hundred there are only specified eight men, who held lands by the grant of Roger of Poictou. In Walton hundred, besides four of those before-mentioned as so holding in Derby, three only are enumerated, and so with the remaining hundreds. Moreover, in the list of

^a *In his 6 hund' Derby, Newtone, Walintune, Blackeburne, Salford, et Lailand, sunt c q̄t x̄x et octo manerii. In quibus sunt q̄t x̄x hidæ geld' una minus. D. 269. b.*

Hujus man̄ (Neweton) aliam terram xv hōes, quos drenchs vocabant, pro xv man̄ teneb̄ sed hujus man̄ bereuuiċh erant.

Ad ipsum man̄ (Walintune) pertineb̄ xxxiv drenḡh et totidem man̄ habebant. Ib.

manors are included the lands of fifteen drenches in Newton, which, though they were only bere-wites of that manor, were held as separate manors, and of thirty-four drenches who held each a manor in Walton.

This debasement of the dignity of thanes to the condition of villans is a striking proof of the wretched state of that part of England, in which it took place. Upon an inspection of Domesday-book, it appears that the country between the Ribble and the Mersey, now overflowing with inhabitants and wealth, lay almost waste and deserted. It was the residence of thanes, because there was not a sufficiency of inhabitants to form tythings without allotting to each so large a tract of country as would defeat the object of their institution, whether it was mutual protection from external violence, or the security of each other from internal disorders. The next best substitute, as a security for the peaceable and orderly demeanor of the people, was by raising every freeman to the rank ofthane, and by that expedient making him answerable for his own household, but he was obliged, at the same time, to labour on the king's farms, because if this service had not been exacted the property of the crown must have gone to ruin, and its corn have been lost for want of reapers.

This extensive district was the last part of England which submitted to a regular government, and, at the time of the conquest, seems to have belonged to no county, but to have been placed provisionally in the county of Chester. Here then we may naturally expect to find stronger traces of the ancient manners and customs of the continental Danes and Saxons than in any other part of the kingdom, and an intelligent inquirer will not be disappointed. We shall content ourselves at present with calling the attention of our readers to the manner in which the inhabitants were dispersed through every part of it. They did not, like the more civilized parts of England, live together in towns, but in distinct and solitary houses, exactly according to the mode of life pursued by the ancient Germans, and conformably to what Tacitus has related of them in his time^a. They were comprehended, however, within the ordinary jurisdiction of the county-court, and, being obnoxious to military

^a *Nullas Germanorum populis urbes habitari, satis notum est, ne pati quidem inter se junctas sedes. Colunt discreti ac diversi, ut fons, ut campus, ut nemus placuit. Vicos locant, non in nostrum morem connexis et coherentibus ædificiis, suam quisque domum spatio circumdat, sive adversus casus ignis remedium sive inscitia ædificandi. Tac. de mor. Germ. 16.*

duties and services, were arranged in hundreds for the more effectual performance of them^a.

Thanes appear to have been very numerous throughout the north of England, but we do not trace any in this degraded state, except in the part of Lancashire we have just described^b. In Yorkshire there were thanes of high rank and great possessions. Alduin, bishop of Lindisfarne, removed the episcopal see to Durham about the year 995. He gave his daughter Egcfride in marriage to eorl Uchtred, who, after having a son, Aldred, by her, returned her to her father, and took another wife. A thane of Yorkshire, Kilvert, the son of Ligulf, then married her. Eorl Aldred, her son, afterwards had a daughter, Etheldrith, and she married Orm the son of Gamellon, who was also a thane of the same county^c. The daughters of bishops and eorls cannot be supposed to have married husbands bound to the performance of the works of villans.

^a *Si quis—remanebat de siremot sine rationabili excusatione p̄ x solid' em̄daß. Si de hund' remaneß aut ñ ibat ad placitum ubi p̄posit̄ jubeß p̄ v sol' em̄daß. D. 269. b.*

^b The thanes of the bishopric of Durham, however, were tallaged in the 13th Henry 3. with the drenges and villans. 1 Mad. Exch. 717.

^c *Sim. Dun. 79, 82.*

The *Northumbrensiū presbyterorum leges* afford some curious information concerning the peculiar situation of the inhabitants of the northern parts of England, as well as confirmation of the account we have just presented to the consideration of the reader, for in several of these laws the whole free population is alluded to as divided only into three distinct classes, the king's thanes, owners of land, of whom we shall take notice in a subsequent chapter, and clowns or ceorls.

Among the Anglo-Saxons the path to rank and honour was open to all, and even persons of servile condition might aspire to the highest titles of nobility. It is expressly said in the *Liber Constitutionum*, that a thræl, a sort of slave, might become a thane; a ceorl an eorl^a. The document entitled *Judicia Civitatis Lundoniæ*, furnishes the most exact account of the requisites necessary to raise a ceorl to the rank and privileges of a thane. One mode of acquiring them was the possession of five whole hydes of land liable to military service, with a church, a kitchen, a bell-house, a seat at the gate of a

^a *Juste etiam nos sapientes discimus, quod Dei providentia servus (thræl) fiat thainus, et colonus (ceorl) fiat comes, cantor sacerdos, et scriba episcopus.* Wilk. 112.

burh or burg, and a distinct office in the king's hall^a. Here an office in the king's palace was made

^a *De gentis et legis honoribus. Fuit quondam in legibus Anglorum ea gens et lex pro honoribus, et ibi erant sapientes populi honore digni, quilibet pro sua ratione; comes et colonus, thanus et rusticus (eorl and ceorl, thegen and theoden).*

Et si colonus tamen sit, qui habeat integras quinque hydas terræ, ecclesiam et culinam, turrim sacram (bell hus) et atrii sedem (burhgeat setl) ac officium distinctum (sunder note) in aula regis, ille tunc in posterum sit jure thani (thegan rihtas) dignus.

Attamen, si thanus sit, qui serviat regi, et iter equestre ipsius faciat in provincia illius, si tunc thanum habeat, qui eum sequitur, qui ad regis egressum (to kinges ut fare) quinque hydas habeat, et in regis aula domino suo serviat, et ter cum epistola ejus proficiscatur ad regem, ille in posterum cum præjuramento suo domini vicario munere fungi debet circa varias necessitates, et causam ejus vindicare ubicunque debebat.

Et qui eos stipatores dignitatis ergo non habeat, juret ipse pro jure suo, vel illam perdat.

Attamen si thanus comes fiat, tunc jure comitis in posterum sit dignus.

Et si mercator tamen sit, qui ter trans altum mare per facultates proprias abeat, ille postea jure thani sit dignus.

Et si discipulus in doctrina proficiat, ut ordinem habeat et Christo serviat, tanto honore et pace dignus sit in posterum, uti ad eum pertinet, nisi aliquid commiserit, ut ordinis hujus officio uti non debeat.

Et si fiat ut ordinatis vel extraneis alicubi noceatur verbo vel opere, tunc regem decet et episcopum, ut hoc emendent quam diligentissime possint.—Jud. Civ. Lund. Wilk. 71.

part of the qualification, and one of the first steps to be taken by a ceorl, in order to ennoble his family, was to be ranked himself among the king's attendants.

Another material part of the qualification was the having of five entire hydes of land, and of the nature of this land the Saxon laws are silent. All we learn is, that they were to be obnoxious to service in the king's fyrde, but such was in general the case of all the lands in England.

The *Textus Roffensis*, in explaining the passage quoted in the foregoing note, makes it relate to villans, and not to ceorls, whence we may infer that the author considered them as the same persons. The five hydes of land necessary for the qualification of athane, according to this book, ought to be of his own *alodium*, that is, according to an explanation of the word mentioned in it before, belonging to him as his inheritance for ever^a. The other necessary qualifications, also, differ in some respects from those I have before

^a *Istæ sunt consuetudines regum inter Anglos.—Carta alodii ad æternam hereditatem. And afterwards, Et si villanus ita crevisset sua probitate, quod pleniter haberet quinque hidas de suo proprio alodii* et ecclesia* propriā—et cloccarium, et coquinam et portam, sedem et privatum profectum in aula regis, tunc deinde erat dignus honore liberalitatis, quod Angli dicunt thegenscipes wurthe. Text. Roff. 44, 46.*

* Sic orig.

enumerated. It is not disputed that he was to have a church of his own, a bell-house, and a kitchen: but the latter part of the sentence, “burhgeat setl and sunder note on kynges healle,” which I have translated in a former page by the words “a seat at the gate of a burh, and a distinct office in the king’s hall,” is rendered in the *Textus Roffensis* by “*portam, sedem et privatum profectum in aula regis.*”

I suspect that the Saxon words “burhgeat setl” imply more than either bishop Ernulf in ancient, or bishop Wilkins in modern times, have been aware of. The word “settle” is still in use in the north of England, and signifies a seat, and among our Saxon ancestors it might, standing by itself, signify a throne^a. A “high settle” had the same meaning as a king’s settle^b, a “bishop’s settle” signified his see^c, and a “dom settle” a court of justice^d. So a burhgeat setl, literally denoting a seat at the gate or entrance of a burh, may be descriptive of judicial power and jurisdiction vested in the proprietor of the burh. It will be seen here-

^a Lye’s Saxon Dict. Setl.

^b Wilk. 8.

^c *Bed. Ecc. Hist. lib. 4, c. 3. C. S. 175.*

^d Wilk. 422. Lye’s Saxon Dict. Setl.

after that the habitation of a thane was denominated a burh, and the gate leading into it we may infer to be a proper place for the administering of justice, from the barons of two hundreds having assembled for that purpose, upon a particular occasion, at the gate of the monastery of Ely^a.

The division of the kingdom into hydes is supposed to have existed before the reign of Alfred, and the national military force was calculated and arranged by them. It is probable that every tenant of five hydes was obliged, on summons, either to serve the king in person on horseback in his expeditions, or send a substitute. And in Domesday-book traces of this system may be found, for, from Berkshire, one soldier only was to attend for five hydes, and each hyde was to give him for his pay four shillings for two months^b; and Totness, Barnstaple,

^a *Diu antequam Ædelwoldus episcopus apud Ely monachos coadunasset, venit Wlstanus de Dalham et cum eo barones quam plurimi illuc, ibique collectis duobus hundretis versus aquilonem ad ostium monasterii placitum habuit, &c. Hist. El. 3 Gale. 475.*

^b *Berchescire.—Si rex mittebat alicubi exercitum, de v hid' tant' unus miles ibat, et ad ejus victum et stipendium de unaquaque hida dabant ei IIII solid' ad duas menses. Hos vero denar' non mittebantur, sed militibus dabantur. Si quis in expeditionem summonitus non ibat, totam terram suam*

and Lideford were bound to render the same service as Exeter, which was, probably, to find one horseman each, for Exeter served as for five hydes of land^a. This conjecture receives confirmation from an entry relating to the burg of Malmsbury, for, when the king went upon any expedition by sea or land, he received twenty shillings to feed his buzecarls, or sailors, or might take with him one man for an honour of five hydes^b. Here the five hydes, for which this service was to be performed, were denominated an honour. It is possible that the word "honour," being only recently introduced into England, had not, when Domesday-book was compiled, acquired a definite specific meaning, for there is reason to believe that after the conquest five hydes of land were the usual fee

erga regem forisfaciebat. Quod si quis remanendi hñs alium pro se mittere promitteret, et tamen qui mittendus remaneret pro L sol' quietus erat dominus ejus. D. 56. b.

^a *In civitate Exonia, &c. Quando expeditio ibat per terram, aut per mare, serviebat hæc civitas quantum v hid' terræ. Barnestapla vero, et Lideford, et Totenais servieb' quantum ipsa civitas. D. 100.*

^b *Malmesberie.—Quando rex ibat in expeditione, vel terra vel mari, habebat de hoc burgo aut xx solid' ad pascendos suos buzecarl'. Aut unum hominem duceb' secum p' honore 5 hidarum. D. 64. b.*

of a *miles*^a, and in Domesday-book the honour of Phyn, a Dane, is mentioned^b, and yet his possessions are referred to merely as “his land^c,” and “his fee^d.” And so in other instances.

The acquisition of five hydes of land did not alone qualify a ceorl to be a thane, and without them it seems that the possession of all the other requisites, even including an office about the king's palace, was not sufficient to invest him with the full privileges of the order. But there was a mode, by which a ceorl or common freeman might attain them, without either having been in the king's service or possessing any land at all. If a merchant passed the sea three times in his own craft he was ennobled. And at the time when great part of the clergy individually

^a *Virgata terræ ex quatuor constat acris, quatuor virgatæ hidam faciunt, quinque hidæ fædum militis.* Chron. Tho. Redburn, cited in Blount, *voce virgata*. To the same effect is a record *Esc.* 12. E. 2. n. 18. *Ebor.* cited by Spelman in his Glossary.

^b *Hoc est de honore Fint (i.e. Phin).* 2 D. 393. *Et eos tenet Ricardus ad honorem Phin.* Ib. 395. b.

^c *In Burghestala h̄ revocat Ricardus ad trā Fin̄.*

^d *Hoc reclamationem ad feudum Phin.* Ib. 393. b. *Ber-reuera tenuit Phin daċ 1 hid' et diṁ liḅ.* D. 41. b. Vluue was his wife, and held *Picesceia* when the Survey was made. Ib. 98.

disavowed the possession of any real property, no landed qualification could be required from a ceorl who entered into holy orders, and thereby acquired this rank. He was sometimes distinguished by the appellation of *mass thane*, while laymen were denominated *world thanes*^a. Though a person in holy orders enjoyed during life all the privileges of a thane, yet there was a very material distinction between him and a secular thane, for the amount of his were was not fixed at any certain sum, but depended upon his birth by the father's side. If his father was a thane, a thane's were was paid, if a villan, it was regulated accordingly.

Persons ennobled by possessing the rank and distinguishing privileges of this order were said, in the Saxon language, to be "Thegen rihtes" "wyrthe"^b,—"the gen weres and thegen rihtes

^a *Ministri ecclesiastici et ministri secularis* (Mæsse thegenes et woruld thegenes) *400 millia thrýmsarum*. *Jud. Civ. Lund.* Wilk. 71. *Juramentum sacerdotis et ministri secularis* (Masse preostes ath, and woruld thegenes) *juxta legem Anglorum* (on Engla lage) *æque charum est*. *Ll. Æthelst.* Wilk. 64.

^b *Et pro 7 omnibus ecclesiasticis, quos sacerdos Dei beneficio suscepit sit jure thani dignus* (the gen rihtes wyrthe). *Ll. Æthelst.* Wilk. 64. See, too, *Jud. Civ. Lund.* 71. where also occurs "eorls rihtes weorthe."

“wyrthe^a”—“thegen lage wyrthe^b,” or as has been mentioned before, “thegenscipes wyrthe^c.”

The honour of a seat in the wittenagemote was not bestowed upon all those who were ennobled, nor did it necessarily make one of the privileges of a thane. The possession of five hydes, probably, was not a sufficient qualification for this purpose, for it seems from a passage in the history of the abbey of Ely, preserved by Gale, that it was requisite for every member to be lord of forty hydes. The story in substance is, that Wlric, a relation of king Edward, was made abbot of Ely in the year 1045. He had a brother, Gudmund, who wished to marry the daughter of a very powerful nobleman, but as he could not obtain the lordship of forty hydes of land, though he was noble by birth, he could not

^a Any priest who shall abstain from fornication, *habeat Dei miserecordiam, et adhuc augeat mundi venerationem ut sit æstimatione capitis thani, et jure thani dignus* (thegen weres et thegen rihtes wyrthe) *tam in vita quam in cæmeterio, et si quis hoc facere nolit, quod ordinem ejus decet, priuetur dignitate sua tam coram Deo, quam coram mundo.* *Concil. Enham.* Wilk. 120. See *Lib. Const.* Wilk. 115.

^b *Et si quis ab eo cessare, et castitatem servare velit habeat Dei misericordiam, et ad terrenam venerationem sit jure thani dignus* (thegen lage wyrthe). *Ll. Cnut.* Wilk. 129.

^c *Ante,* p. 134.

be ranked among the chiefs, the lady therefore rejected him ; upon which he went to the abbot his brother, and by his earnest entreaties prevailed upon him to preserve him from disgrace by fraudulently giving to him immediately, in private, without title or subscription witnessed, certain possessions of the abbey, that is to say, part of Merham, with the court of the vill, Livercmere, Nachentune, Acholt, Bedenastede, and Gerboldesham. When the monks afterwards discovered the fraud they were very much displeased, and he sorely repented, and was much alarmed, and in his fright withdrew Acholt^a.

We may presume that the members of the wittenagemot, in addition to the ealdormen and eorls, were selected from the body of king's thanes, for we find them summoned to attend when it was assembled^b, and thanes mentioned as forming part of the great men collected about the person of the king^c. The laws of Eadgar

^a 3 Gale. 513.

^b 1123. *Statim post hæc misit rex suas literas per totam Anglorum terram et jussit suos episcopos, et suos abbates, et suos thanos omnes, ipsi obviam venire ad procerum concilium* (his gewitene mot) — *ad Glearwceaster.* C. S. 224.

^c 1086. *Tunc autem præsto apud eum fuerunt omnes optimates per totam Anglorum terram archiepiscopi et diæcesani episcopi, abbates et comites, thani et equites.* C. S. 190.

mention his thanes as invested with legislative authority, and making those laws^a.

The greater part of the thanes were noble by birth, for it has been observed before that the Saxons paid great respect to persons of high descent, and their laws leave no room to doubt that this title was hereditary. In the treaty between Edward and Guthrun, it was stipulated that if any one was killed, his were, or compensation for his loss paid to his relations, should be calculated according to his birth^b, and so it was enacted by the 69th chapter of the laws of Henry the first, and by the 68th it depended upon his birth by the father's side^c. In the *Judicia Civitatis Lundoniæ*, quoted before^d,

^a *Et ego et thani mei facere volumus quod sacerdotes nostri, qui pastores animæ nostræ sunt, nos docent. Ll. Eadg. Wilk. 80.*

^b *Si quis occidatur compensetur juxta nativitatem suam. Fæd. Eadw. et Guth. Wilk. 53.*

^c *Et licet omnis presbyter undecunque oriundus, si canonicam vel regularem vitam ducat, in seculari dignitate thaini legem habeat: si tamen occidatur, et hoc ad emendationem pertrahi liceat secundum natale suum reddatur. Si de thainis natus est, thaini wera reddatur. Si de villainis, similiter conjectetur, et tam in clericis, quam in laicis, observandum ut ad patrem, non ad matrem generatio dirigatur. Et nemo, sub servitute natus, ante legitimam libertatem sacris ordinibus admittatur. Ll. Hen. 1. 68. Wilk. 264.*

^d *Ante, p. 42, note.*

though a ceorl, possessed of a helmet, breast-plate, and gilt sword, and having no land, still remained a ceorl, yet if his son or grandson afterwards possessed the necessary quantity of land, the were of such offspring was raised to the same sum as a thane; and the laws of Ina make the concurrence of forty-eight “full-born thanes^a” necessary upon one particular occasion. By the *Senatus Consultum de Monticulis Walliæ*, the were to be paid in case of a Welshman killing an Englishman, or an Englishman killing a Welshman, was fixed at only the half of the usual were, whether the deceased was “thane-born or ceorl-born^b.” And in the French copy of the laws

^a *Spolium est opus hominis nequam* (nithingesdæde) *si quis hoc negare velit, faciat illud cum XLVIII vere nobilibus thanis* (fulborenra thegena).—*Ll. Inæ*. Wilk. 27. The true meaning of “fúlbornra thegena” may be disputed; it may possibly signify thanes born in wedlock, for among the northern nations bastards were acknowledged and provided for as children of the family. *Si quis dereliquerit filium legitimum unum, quod est fulboran, et filios naturales unum aut plures: filius legitimus tollat duas portiones de patris substantia, naturales vero tertiam*.—*Leges Longob. lib. 2. tit. 14.*

^b *Si Wallus Anglum occidat, non debet eum plusquam dimidiata capitis æstimatione* (were) *compensare, nec Anglus pro Wallo plus compenset, sive sit thanus natus, sive colonus natus* (thegen boren, sy he ceorl boren) *dimidiata æstimatio capitis ibi sufficiat*. *Sen. Cons. de Montcolis Walliæ*. 5. Wilk. 125.

of William the conqueror, one of high blood (l'um de halt saint) is mentioned^a, which may be equivalent to “forthboren,” opposed to “læs borenan” in the laws of Eadgar^b.

Thanes by birth were treated with greater respect than those, who from ceorls had raised themselves to nobility, and to the former may have been applied some of the epithets importing superior rank, which are now so difficult to be explained. For instance, the word *patricius*^c may imply that the person so denominated was noble by birth, and “æthelum mannum” may perhaps bear the same meaning. These latter words occur in the description of persons assembled at a synod held by Æthelstan, at which were present Wulfhelmus the archbishop, with all the æthelum mannum, and wites, whom the king had collected^d.

“Good” thanes may have been thanes of

^a Wilk. 221.

^b *Nullus sacerdos illustris natus* (forthboren) *contemniat inferioris conditionis* (læs borenan) *sacerdotem*. Wilk. 83.

^c In 704 the Latin copy of a charter, granted to the abbot of Glastonbury, concludes, *Pro ampliori firmitatis testamento, principes et senatores, iudices et patricos subscribere fecimus*. 1 Mon. 13.

799.—*Osald, quondam dux et patricius, et ad tempus rex, tunc vero abbas obiit*. Hoveden. 233. b.

^d *Ll. Æthelst. ad finem*. Wilk. 61.

noble lineage; they are mentioned in the laws of Æthelstan ^a, and in the Saxon Chronicle in the year 1010 ^b. A “senior” thane also is mentioned in Domesday-book, not so called on account of his being older than others, but superior in rank ^c.

Thanes were distinguished from *milites*, and we find *milites* dependent upon, and holding land under them ^d. But *milites* were never ranked among the nobility of the Anglo-Saxons.

Besides the privileges already mentioned, there were others peculiar to the order of thanes; among them may be reckoned their exemption from being enrolled in tythings with the lowest class of freemen. The land which they held, and the dignity which they enjoyed, were suffi-

^a *Si dominus eum purgare velit cum duobus bonis thanis* (godum thegenum), &c. *Ll. Æthelst.* Wilk. 117.

^b 1010.—*Multique alii nobiles thani* (godra thegna). *C. S.* 139.

^c *In Wicheburne h̄b̄ Suain XII boū tr̄æ ad ḡld. Duas boū de hac tr̄a tenuer̄ v̄ taini, uñ eorum erat senior aliorum, qui non pertinuit ad Suain.* *D.* 291.

^d *Ll. Ed. Con.* Wilk. 202. *Rex tenet Frogeham quinque taini tenuer̄ de Edvino comite, et poterant ire cum terra quo volebant, et habeb̄ sub se IIII milites, ita libos ut ipsi erant.* *D.* 180. b.

De ea ten̄ Croc III, v̄ tr̄æ et unus miles ejus II hid'. *D.* 74. b. Croc was a thane, a venator.

cient securities to the government for the good behaviour of themselves and their dependents. In the laws of Æthelred every lord of land is made answerable for his own family, and, if any member of it fled upon an accusation preferred against him, the lord was to pay his were to the king^a. The laws of Cnute have the same provision, and both agree in stating that, if the lord was accused of having counselled the offender to fly, he should clear himself with five thanes, himself being the sixth, but, if he did not thus prove his innocence, he should pay to the king his own were, and his vassal should become an outlaw^b. It is observable, that the lord here

^a *Et quilibet dominus (hlaford) habeat familiam suam (his hyredmen) in propria sua fidejussione (on his agenon borge) si tunc accusaretur, et effugerit, solvat dominus (hlaforde) capitis ejus æstimationem regi. Et si tunc dominus accusaretur quod de suo concilio aufugerit purget se quinque thanis, et ipse sit sextus. Si excusatio ejus violata fuerit, solvat regi æstimationem capitis sui (his were) et sit servus exlex (man utlah). Ll. Æthelr. 1. Wilk. 103.*

^b *Et quilibet dominus famulos suos (hlaford his hiredmen) in propria fidejussione (borge) habeat, et si quis eum alicujus rei accuset, respondeat in ea centuria ad id, cujus accusatus sit, prouti lex justa est. Et si accusaretur et effugerit, solvat dominus servi illius æstimationem capitis (gylde se hlaford thæs mannes were) regi, et si quis tunc dominum accuset, quod ipsius suasu effugerit, purget se v thanis ipso existente sexto. Si purgatio ei frangat, solvat regi æstimationem*

mentioned was to prove his innocence by five thanes for compurgators, he himself making the sixth, plainly inferring that he was of the same rank, for these haughty nobles would not have condescended, nor would the law have permitted them to have appeared in any judicial proceedings as the peers of persons of an inferior class.

According to the laws of Cnute, just cited, the domestic attendant of a lord was to be tried for crimes in the hundred-court, where the lord was obliged to produce him when required. The lord, mentioned in the laws just quoted, is more fully described in a law of Edward the confessor, which enumerates archbishops, bishops, eorls, barons, and *all who had sac, soc, toll, theam, & infangtheft*, and also particularizes the persons who were placed under the protection of these lords, namely, their *milites*, and not only their own immediate attendants or *servientes*, but also their esquires, and all others serving them ^a.

capitis (his were), *et sit homo exlex*. *Ll. Cnut.* 28. Wilk. 139. Similar provisions are found in *Ll. Hen.* 1. Wilk. 241, 251, 258.

^a *Archiepiscopi, episcopi, comites, barones, et omnes qui habuerint sacham et socam, thol, theam, et infangtheft, etiam milites suos, et proprios servientes, scilicet, dapiferos, pincernas, camerarios, pistoros, et cocos sub suo friborgo habeant. Et item isti suos armigeros, vel alios sibi servientes sub suo*

The greatest part of the land of England was possessed by thanes, and, in the laws of Eadmer^a and Edgar^b, thanes are described in terms applicable only to the general landholders in a county. Moreover, in those of Edgar^c and of Cnute^d, they are mentioned as holding Bocland, with churches upon it.

friborgo. Quod si cui forisfacerent, et clamor vicinorum de eis assurgeret, ipsi tenerent eos rectitudini in curia sua: illi, dico, qui haberent sacham et socam, thol, et theam, et infangthefe. Wilk. 202.

^a *Si eam ex terra illa ducere velit in alterius thani regionem (land) tunc sponsio ipsius sit, &c. Ll. Eadm. 7. Wilk. 76.*

^b *Volo etiam ut cives (tunes men) et eorum pastores (hyndes) habeant idem scrutinium in vivis meis animalibus, et thanorum meorum, ac in propriis suis habent, si hoc autem præpositus meus (min geref) vel alius alter dives, vel pauper respuat, &c. Ll. Eadg. Wilk. 81.*

^c *Si quis thanorum sit, qui in feodo suo (on his Bocland) ecclesiam habet in qua sit cæmeterium, det tunc tertiam partem propriarum decimarum suarum ecclesiæ suæ. Si quis ecclesiam habet, in qua non sit cæmeterium, tunc ex novem partibus presbytero suo det quicquid velit, et transeat quilibet ecclesiasticus census ad primariam ecclesiam de qualibet terra libera (ælcum frigan eorthe). Ll. Eadg. 2. Wilk. 76.*

^d *Si quis tunc thanus sit, qui in possessione sua ecclesiam habeat, in qua sit cæmeterium, tradat tunc tertiam partem propriarum decimarum ecclesiæ suæ. Si quis ecclesiam habeat, in qua non est cæmeterium, det ex novem partibus presbytero suo id quod velit, et quilibet ecclesiæ census primario tradatur templo ex omnibus ingenuorum socis. Ll. Cnut. 11. Wilk. 131.*

Thanes were found in every part of the kingdom. They are noticed, but not so frequently as might be expected, in Domesday-book among the holders of land, and are sometimes alluded to as bearing witness to the truth or falsehood of the returns from which it was compiled ^a.

Thanes were in the habit of attending the shire gemots or county-courts. At one, held at Aylston in the reign of Cnute, there were present with the bishop and alderman, and a few others, all the thanes of Herefordshire. Edwin came and claimed some land from his mother, but nobody being prepared to answer for her, three thanes of the gemote rode over to her, and in their presence she made a gift of all her lands, and other property after her death, to Leofleda her relation, and she then desired the thanes to dothane-like, and relate what she had said to the gemote before all the good men, and pray them to be witness of the gift. They did so, and then Thurcel the wite, the husband of Leofleda, stood

^a *Brictric tenebat unam virgatam terræ T. R. E. quæ antea fuerant in Brantone manerio regis, et Wills de Walville remisit eam ibi T. R. W. hanc ep̄s constantiensis calumniat, sed taini nesciunt quomodo Brictric habuerit. D. 102.*

Wills ten̄ 11 hid' p̄pe istas VII hid' sup̄dictas. Una p̄tinet ad Bardenestoch m̄ Edwardi (vicecom̄), et altera ad Cliue m̄ Gisleberti (de breteuile) sedm̄ testimonium tainorum. Valent xx solid'. D. 74. b.

up and prayed all the thanes to award to his wife the lands which her relation had given to her, and it was done accordingly^a. Here we find the thanes not only attending the county-court, but acting as judges there.

They also were present at the courts of hundreds, of wapentakes, and even of burghs, in great numbers. In the laws of Æthelred twelve of the most honourable thanes were required to go with the gerefa out of the folkmote of a wapentake^b, and by the *Northumbrensiū Presbyterorum Leges* two trusty thanes, and one priest, were to be named in each wapentake, to collect Peterpence^c. Though the thanes we have just men-

^a *Hickes. Diss. Epist. 2.*

^b *Et pretium fundi pacto datum (landcop) ac domini donum quod juste donare potest, et legis emptio (lahcop), et responsum prudentum (witword), et testimonium hoc ita permaneat ut nullus illud evertat. Et ut habeantur conventus in quolibet wapentachio, et exeant seniores (yldestan) XII thani, et præfectus (gerefa) cum eis, et jurent, &c. Ll. Æthelr. Wilk. 117.*

^c 57. *Si quis festum, aut justum jejunium violet, solvat mulctam XII orarum. Volumus etiam, ut quilibet Romæ denarius solvatur circa festum Petri, episcopali cathedræ. Volumus etiam, ut in quolibet wapentachio nominentur duo fideles thani, et unus presbyter, ut eum colligant, ac deinde tradant, prouti audeant jurare. Northh. Presb. Ll. 57. Wilk. 101.*

tioned as attending at county and hundred-courts are not denominated king's thanes, we cannot be assured that they were not of that description, for it was not derogatory from the rank of the highest thanes to be obliged to attend upon the courts of the king.

As mere possessors of land under the crown the thanes could not be dispersed over the kingdom in such numbers as to account satisfactorily for the appearance of them in large bodies at public meetings, for the names of all those holding land immediately under the king, whose names or descriptions are preserved in Domesday-book, probably do not exceed 650, and, exclusive of the thanes, *servientes* and *elemosinarii* found in the general lists, may be about 420. Of these, very many must always have been attendant about the king's person or employed in his service. Besides, in some counties the tenants in *capite* formed a very trifling portion of the general population; for instance, in Kent (exclusive of Dover and Canterbury) twelve only are mentioned, in Cornwall seven, in Staffordshire seventeen, in Shropshire nine, in Cheshire the bishop and the eorl only; all between the Ribble and Mersey had belonged to Wulfric Spot, and afterwards to Roger of Poictou, and when

Doomsday-book was compiled, was the king's; Derbyshire was held by seventeen, Yorkshire, including part of Lancashire, Westmorland, and Cumberland by forty-two. How then could the law of Ethelred, requiring the presence of twelve selected thanes out of the folkmote of a wapentake or hundred, associated with the gerefa, be complied with? Hickes has added to the difficulty by presenting us with a copy of the instrument of association of a gild of thanes at Cambridge, but how there should be collected together in a single borough so many thanes as to form among themselves a gild or association, he has not explained.

The power of some thanes appears occasionally to have been very great, and we find them united in bodies to oppose or elect kings. In the year 1013 Æthelmer the ælderman, and all the western thanes, submitted to Swain, and gave him hostages^a. And in 1036 eorl Leofric, and almost all the thanes north of the Thames, together with the mariners of London, chose Harold king of all England, though opposed by eorl Godwin and the (yldestan men) chief men of the West Saxons^b. It may be remarked here, that the western thanes are frequently mentioned in history,

^a C. S. 143.

^b Ib. 154.

and the Exeter Doomsday, as well as Doomsday-book itself, confirms the supposition that, before the conquest, thanes were more numerous and possessed more land in the western counties than in any other part of the kingdom. Probably this might be occasioned by their coasts being more exposed to the inroads of foreign enemies than any other, and affording the best accommodation for their landing. For these reasons the Anglo-Saxon monarchs paid particular attention to these counties, and resided longer there than in the internal parts, and their attendants, of course, were distributed near to them. It appears that this arrangement existed in the reign of Edward the confessor, as well as of William the conqueror, and it may be traced in the Saxon Chronicle and other histories in the reigns of their predecessors.

The rank and situation of the inferior classes of thanes, mentioned in the laws of Cnute and Henry the first, now claim our attention. The “medemra”thane in East and West Saxony and Mercia, mentioned in the first of those laws, was evidently of the same rank, and paid the same heriot, as the thanes among the Danes, described to have less property and power than a king’s thane. So, as to his relief, the *mediocris thanus*

of the Saxons was placed by the laws of Henry the first upon the same footing with him who had smaller power among the Danes. Some uncertainty arises as to the word “medemræ,” the comparative degree of the Saxon word *medeme*^a, signifying either *mediocris* or *dignus*, but in the laws of Henry the first we find a legislative exposition of its meaning, and the word *mediocris* used to convey it. Among the Danes this thane was described as “læsse hæbbe
“and læsse mage,” less rich and less powerful, and the law of Henry the first recognizes him by the description of “less powerful” only. In illustration of this part of our argument, we may refer to the clause in the treaty made between Alfred and Guthum, respecting thanes charged with murder, which has been noticed before, and mentions two classes of thanes only, king’s thanes, and those “bith læsse maga” of smaller power.

The title of thane was not confined to the officers and attendants of kings. It has been mentioned in a former chapter that queens had their thanes, that king William’s daughter had a

^a An instance occurs in *Bed. Hist. Eccl.* l. 5, c. 13, of the use of the superlative degree of this adjective. “Medemæstan gewohte” is given as the translation of *tenuissima cogitatione*.

cameraria, and that the attendants of eorls might be dignified with this title, but it appears from a law of king Æthelstan, which has been quoted before, that even thanes of distinguished rank might have in their service inferior ones, who were entitled to considerable privileges in consequence of the connection.

Thanes might also belong to bishops. Stigand, archbishop of Canterbury, had some ^a, so had the bishop of Salisbury^b, and the bishop of Worcester had a *camerarius*^c. They belonged also to the establishments of some religious houses, as appears from charters cited in a former page^d. In one place three Englishmen are recorded to have held

^a *Resebēi tenuit ulmār teiñ substigando 11 car̄ tr̄æ.* 2 D. 349.

De hoc man̄ tenuit Alnod' teign̄ Stiḡ arch̄ 1 hid' et dim̄ pro uno manerio. D. 142.

^b *Dorsete.*—*Ipse episcopus (i.e. Sarisberiensis) tenet Scireburne, &c. De eadem terra hujus man̄ tenet de ep̄o Otbold' 14 hid'. Sinod' 5 hid' et dimid'. Ingelbert 5 hid'. Waleran 111 hid'. Radulf 111 hid'. Uxor Hugonis (f. Grip) 11 hid'. In his, &c.*—then is specified what the bishop held in demesne, and what the monks held under him. The whole is valued thus: *Quod habet episcopus in dominio in hoc manerio valet 1 lib. Quod monachi 6 lib et x solid'. Quod milites episcopi 22 lib. Quod taini 6 lib.*—D. 77. The number of thanes mentioned as holding other parts of the bishop's lands, strongly evince the magnificence in which he lived.

^c 1 Mon. 132.

^d *Ante*, p. 161.

land under the church of Wilton, two of whom paid five shillings rent, but the third paid nothing, because he served *as a thane*^a. The expression here is ambiguous, and it is not clear that he was a thane, but that he served *as one*.

There was nothing peculiar to the rank of a thane which should prevent his holding land under a superior lord. In 954 king Edred granted to Wilfric, his minister, lands, which the latter bequeathed to the monastery at Glastonbury, but to effectuate this donation he was obliged to obtain the consent of his lord^b. From an entry copied in the note below it appears that several thanes had placed themselves and their lands under the protection of Brictric^c, and

^a *Tres Angli tenuer T. R. E. et non poterant ab æceta separari. Duo ex his reddeb v sol' tercius servieb sicut tainus. D. 67. b.*

^b *Idem quoque rex (Edred, A. D. 954) dedit Wilfrico ministro suo Horton decem hidas, quas ipse consensu domini sui, post obitum suum, monasterio Glastoniæ delegavit. 1 Mon. 16.*

^c *Hoc manerium (Tedechesberie) tenuit Brictric filius Algar. T. R. E. et has subscriptas terras aliorum teinorum ipso tempore in sua potestate habuit. In Essetone tenuit un tein IIII hid' et man erat, modō tenet Girard —. In Wenecote tenuit un teinus III hid'. And afterwards others are mentioned. Qui T. R. E. has terras tenebant, et se, et tras suas sub Brictrici potestate sumpserunt. D. 163. b. Brictric*

that another thane had chosen Ernulfus de Hesding for a lord^a. These entries explain the situation of the thanes and *servientes* of Dorsetshire, which has been noticed in a former page^b, and shew that the privilege of choosing a lord was sometimes exercised.

A thane might be the *homo* or vassal of the king, the queen, an eorl^c, or thane^d. He might hold manors, or be the *caput manerio*

probably was a thane himself; one of that name has been noticed before.

^a *Terra Ernulfi de Hesding. In eadem villa tenet unus tainus de Ernulfo II virg trā et dimid'. Val' xx solid'. Hic T. R. E. poterat ire ad quem vellet dominum, et T. R. W. sponte se vertit ad Ernulfum. D. 70.*

^b *Ante, p. 139.*

^c *Hoc manerium tenuerunt II teigni. Unus horum homo R. E. quinque hid' habuit pro uno manerio, et alter homo heraldi (com) VII hid' pro uno manerio et potuerunt inde facere quod voluerunt. D. 129.*

Ipsē Maigno tēn Wluerintone p̄ xx hid' se defd'.—Hoc m̄ tenuer̄ III teigni. Horum unus, Goduin, hō heraldi com x hid' habuit, et alt. Tori Huscarle R. E. habuit VII hid' et dim, et tercius Aluric hō Eddid' regincæ II hid' et dim habuit. Ipsi om̄s cui voluer̄ vendere potuerunt. D. 152.

Felteham tēn isdem comes p̄ XII hid' se defd'.—Hoc m̄ tenuer̄ II teigni. Un̄ hōr hō R. E. v hid' habuit p̄ uno m̄, et alt hō Haroldi (com) VII hid' p̄ uno m̄; et potuer̄ inde facere quod voluerunt. D. 129.

^d *Hoc m̄ tenuit Azor filius Toti, teign R. E., et alter teignus, hō ejus, tenuit I hid' et vendē potuit. D. 152. b.*

under any of these^a. He might hold land without the soc^b, or only *in commendatione*^c, or might have berewites^d; he might pay rent to the sheriff of the county^e, as in the farm of the king^f, or, in lieu of rent, do services to the steward of the manor^g.

^a *M. In Crophille hbr Vluiet, (et Godric) II bou trē ad gld. Trā II car. De hac trā fuit saisit Ilbt de Laci, sed qđo Rog pict accepit trā saisivit istud m sup Ilbt. Wapentač port testim. Ilbt fuit saisit m ē in manu regis pt tciā partē et tainū qđ est cap manerii quē tenet Ilbtus. D. 291.*

^b *Terre Umfridi camerarii—Hunfrid in dñio, rex et comes socam. 2 D. 434. And, in the preceding page, Amund' ten de Hunfredo. Rex et comes socam. Ib. 433. b.*

Terra tainorum regis, in Yorkshire. Terra ad dim car soca ptinet ad Willune. D. 331.

^c *Radulfus (framen) ten de rege in commendatione III car trā, et dim in Esseberie. Ibi sunt II villi hñtes VI car et XII ac pti. Val' x solid'. D. 236. b.*

^d *Hās VIII bereū ten IIII teini, et IIII francig, et alii hōes de eis. D. 247.*

In the Terra tainorum regis, in Staffordshire—Udi ten de rege 1 hid' in Seresdone. Gamel tenuit, sed soca ejus fuit regis. D. 250. b.

^e *In the Terra tainorum regis in Staffordshire, after three persons had been named, Hi. III hōes reddt vicecomiti XII sol' per singulos annos—and no value is put upon each separate estate. D. 250. b.*

^f *Huū camerarius ten ad firmam de soca regis II car trā in Abegram, &c. D. 232. b.*

^g *Tres taini teneb T. R. E. et servieb pposito m pro consuetud' absq omni firma donante. D. 86. b.*

The greater lords who attended the court, imitating the manners and borrowing the titles of the Continent, previous to the time of the Norman conquest had assumed the name of barons, but the bearers of that title were not distinguished from thanes by any superior privileges, or formed into a distinct class of English nobility, till a much later period^a.

The first mention of barons, which Spelman was able to discover, was in a letter of pope Nicholas the second written to Edward the confessor^b,

^a "Baron" was not originally a name of dignity in the law of England, nor even an addition, and a baron could not plead or be impleaded by it but by the name of knight or esquire, for, says one of the books, "there are barons of London, of the Cinque-ports, or the Exchequer."—Davis. Rep. 60. Br. Amercement. Pl. 52. 8 H. 6. 9. 22. Br. Briefe. Pl. 168. But it was otherwise with respect to dukes, marquisses, earls, and viscounts, who were always described by their names of dignity, for these dignities were parcel of their names. Jenk. Rep. 209. But we have the authority of Lord C. J. Holt to say that, though the law was so formerly, when barons were by tenure, and they were summoned to parliament by writ, yet now that they are created by letters patent, as others of higher rank of nobility are, baron is a title of dignity and parcel of the name. *La Pierre v. Sir John Germaine.* 2 Ld. Ray, 859. It was not until the reign of Charles the second that they were permitted to wear coronets.

^b The words are these, "*Possessiones quas vos et barones vestri ad eundem locum contulistis.*" Spelm. Gloss. in voce.

material only as shewing that the pope conceived it to be the appropriate Latin word, in which language he was writing, for the description of the persons therein mentioned.

The laws of Edward the confessor, if there was no reason to doubt of their authenticity, having been collected after the conquest with a view to give stability to the new system of government, cannot be entirely relied upon to prove the existence of barons before that time. But, at all events, they shew the early introduction of the title afterwards, for in the preamble it is recited that William, in the fourth year of his reign, “by the advice of his barons,” had taken measures to collect those laws^a. In the thirty-fifth law the connection of the barons with courts of justice is strongly marked, for a general shew of arms throughout the kingdom annually on the same day is ordered, and the sheriffs, aldermen, and stewards of hundreds and wapentakes, and other bailiffs of the king, are required to punish, by fine to the king’s use, all who failed to appear, but barons, who had their separate customs, and

^a Hoveden and the *Chronicon Lichfeldense* state, that William the first, in the year 1070, *consilio baronum suorum*, summoned the noble and wise English, and those who were skilled in the laws. Wilk. 214.

their own courts, were to take care of their own vassals ^a.

Ingulphus says that the Conqueror distributed the counties, *baronies*, bishoprics, and prelaties of the whole of his country to the Normans, which implies that, at the time of the distribution, if not of the conquest, baronies existed here ^b.

The appellation of baron is found in several passages of Domesday-book. At Warham the houses, standing or destroyed, which belonged to barons, are enumerated ^c. After William had assumed the crown, a suit respecting the tolls of Canterbury was decided by the judgment of the

^a — *quod nisi fecerint vicecomites, et aldermanni, et prepositi hundredorum et wapentachiorum, et cæteri ballivi domini regis illud dominio rege emendare debent. * * * * Barones, vero, qui suas consuetudines habent, et qui suam habent curiam de suis hominibus, videant ut sic de eis agant et omnia rite faciant, quatenus erga dominum regem reatum non incurrant, nec coronam regni prædicti offendant. Wilk. 205.*

^b *Deinceps (sc. post conquestum) ergo comitatus et baronias, episcopatus, et prælatias totius terræ suæ Normannis rex distribuit, et vix aliquem Anglicum ad honoris statum, vel alicujus domini principatum ascendere permisit. Ingulph. 512. b.*

^c In Warham were seventy houses, and seventy-three destroyed. *De parte Sⁱ Wandregisili sunt ibi XLV dom̄ stantes et XVII vastæ. De partibus aliorum baronum sunt ibi XX dom̄ stantes et LX sunt destructæ. D. 75.*

barons, who held the plea^a. The barons of the king appear to have come as his justices into several counties^b. Bishop Osbert recovered land before them^c, and pledges were given to them by both the contesting parties in a claim to land in Lincolnshire^d.

That in the reign of Henry the first the witenagemot was composed of barons of the king is manifest from his laws, which were drawn up

^a *Judicio baronum qui placitum tenuerunt.* D. 2.

^b *Hoc invenerunt barones regis in pace inter, &c. quando venerunt in comitatum, &c.* 2 D. 377. See 1 Hem. Chart. 77.

De mansione que vocatur ('Ol) Writona erat saisitus abbas Tavestochensis ea die qua rex Willem misit barones suos ad inquirendas terras Angliæ et antecessor suus ante eum fuerat inde saisitus, et per barones regis inde desaisitus fuit p̄ p̄t hoc q̄d testati sunt Angli quod ad abbatiam non pertinuit ea die, qua rex E. vivus et mortuus fuit. Ex. D. 178. b.

^c *Critetone. De hoc manerio ostend' Osbrī ep̄o cartas suas, quæ testant æcllām S. Petri. inde fuisse saisitam anteq̄ rex E. regnavit. Insuper T. R. Wiltī dirationavit coram baronibus regis eē suam.* D. 101.

^d Among the clamores in Chetsteven (Lincolnshire)—*Wido de credone tenet in Draitone IIII bov̄ terræ, and in Bichere x bovatas de trā Adestan Godramesune. H̄ calumniat comes Alañ, et Alger homo ejus dedit vadimon̄ baronibus regis ad confirmand' per judicium aut per bellum, quod ipse Adestan de his XIII bov̄ saisit non fuit T. R. E. contra homo Widon. Alestan de Frantone ded' suum vadiū ad convincend' quod inde saisit erat cum saca, et soca, et Wido inde fuit saisit ex tempore Radulfi stalre, usque nunc, et modo tenet.* D. 377. b.

in the form of a charter. In the first part it is recited that he was crowned “with the common council and assent of the barons of the kingdom of England;” he declares he will dispose of the daughters of his barons or vassals “by the council of his barons,” and, in the second chapter, justifies his having kept the forests in his own hands by stating that he held them “with the common consent of his barons,” as his father had done. The witnesses to these laws were, “the archbishops, bishops, barons, earls, sheriffs and greatest men (*optimatibus*) of the whole kingdom of England^a.” The introduction to the laws of Edward the confessor shews that the witenagemot was composed of barons even so early as in the reign of king William the first, for the persons who compiled those laws were summoned by “the council of his barons^b.”

That the barons of the king were flattered by the appellation may be inferred from Wynebald, in a grant made in the year 1126, styling himself one of the barons of king Henry the first after the conquest^c. In Domesday-book a bishop,

^a Wilk. 233, *et seq.*

^b lb. 197.

^c *Ego Wynebaldus de Balon unus de regis Henrici post conquestum primi baronibus, et Rogerius filius meus, &c.*
1 Mon. 111.

and Ralph the stallare, are styled barons of the king^a.

It appears from the laws of Edward the confessor that the general administration of justice was left to the stewards of the king's manors, and of hundreds and burghs, and the sheriffs of counties, but, besides these, the archbishops, bishops, earls, barons, and other lords, had sac and soc, and thol, theam, and infangentheof, in the lands subjected to their authority^b. We have before observed, that long before the conquest the title of

^a *Hanc terram invadiavit abbas contra barones regis scilicet W. ep̄m Engelricum et Rad stalrā p̄ c sol' hic pot̄ vendere et dare t̄ram suam set soca et sac remaner̄ scō.* 2 D. 267. b. Perhaps the modern "equerry" has succeeded to the place of the ancient stallare.

^b *De baronibus, qui suas habent curias et consuetudines, archiepiscopi, episcopi, comites, barones, et omnes, qui habuerint sacham et socam, thol, theam, et infangthefe, etiam milites suos, et proprios servientes, scilicet, dapiferos, pincernas, camerarios, pistoris, et cocos sub suo friborgo habeant. Et item isti suos armigeros, vel alios sibi servientes sub suo friborgo. Quod si cui forisfacerint et clamor vicinorum de eis assurgeret, ipsi tenerent eos rectitudini in curia sua: illi dico qui haberent sacham et socam, thol et theam, et infangthefe.* Ll. Edward. 21. Wilk. 202.

Archiepiscopi, episcopi, comites et aliæ potestates in terris propriæ potestatis suæ sacham et socam habent, thol et theam, et infangentheof. In cæteris vero per emptionem vel cambitionem, vel quoquomodo perquisitis, socam et sacham habent, &c. Ll. H. 1, c. 20. Wilk. 246.

thane was given to persons of this latter description, and, about the time of that event, the word "baron" was gradually substituted and used in the same extensive signification. Not only the 21st law of Edward the confessor, just quoted, but the 35th also, mentions barons having their separate customs and their own courts, and the 17th of William the conqueror protects the monasteries and sleeping-places of archbishops, bishops, earls, barons, and villans, in one of which description of persons all the freemen of England must have been included^a. And, in many clauses of the laws of Henry the first, the word baron occurs in such connection that it must necessarily be construed to mean the possession of judicial power^b. In the 7th law, where the attendance

^a The penalties for breaking into monasteries or chambers were to be divided thus :—*Archiepiscopus habebit de forisfactura XL solidos in Merchenelega, et episcopi XX solidos, et comes XX solidos, et baro X solidos, et villanus XL denarios. Ll. W. Con. 17. Wilk. 222.*

^b *Et si quis baronum terram suam velit tollere de hundredo ubi murdrum vadiaverit, vel prepositus suus prius reddatur quod sine calumpnia vadiatum est, et postea transeat inde si velit, et possit quæ omnia fortiora erunt, si unquam antea murdrum inibi conjectaverit, vel consuetudines alias hundredi fecerit. Et eat summonitio regis ad dapiferum, vel ministrum manerii, si dominus desit vel nequeat ei nuntiari. Ll. Hen. 1. c. 92. Wilk. 281.* From the last words, compared with the first, it is evident that a baron, possessed of the municipal

of the members of the county-court is required, “bishops, earls, sheriffs, vicars, hundredaries, “aldermen, prefects, stewards,” are mentioned, being all the officers of the crown for the administration of justice within the county, and then follow “barons, vavasors, tungreves, and other “lords of lands,” that is, the possessors of judicial power in their own right^a. The 9th law, when distinguishing between the distribution of justice by the king and his subjects, expressly states that the cognizance of pleas, in some cases, belonged to barons having soc and sac^b. The 25th law is intitled “*De privilegiis procerum Angliæ*,” and Spelman justly remarks, jurisdiction of his own lands, and the lord of a manor, were the same.

Si homines unius baronis pugnent cum sanguinem faciente, vel non faciente, sive in præsentī, sive postea, quanquam craventur non remanet Wita domini. Si sint duorum dominorum, &c. Ll. Hen. 1. 94. Wilk. 283.

^a *Intersint autem episcopi, comites, vicedomini, vicarii, centenarii, aldermanni, præfecti, præpositi, barones, vavasores, tungrevii et cæteri terrarum domini, &c. Ll. Hen. 1, c. 7. Wilk. 240.*

^b *Soca vero placitorum alia proprie pertinet ad fiscum regium, et singulariter alia participatione, alia pertinet vicecomitibus et ministris regiis in firma sua. Alia pertinet baronibus socham et sacham habentibus. Ll. H. 1. 9. Wilk. 242.*

^c *De privilegiis procerum Angliæ.—Si exurgat placitum inter homines alicujus baronum socnam suam habentium*

that under the denomination of *proceres*, by which, compared with the 30th law, barons must be understood, all lords of manors are included, for the law itself relates only to pleas arising between the men or feudatory tenants of such barons as had their own soc. By the 24th law it is provided, that whatever offences may be committed by barons, having their own soc, shall be cognizable by the officers of the king, for no one shall take his own forfeitures, but they shall go to his lord or the king^a. And, to add one reference more, in the 48th law a single baron is prohibited from holding plea of any matters cognizable only by several^b.

There can be no doubt that barons “having their own socs,” mentioned after the conquest, were the genuine successors of the thanes who had enjoyed similar privileges, and were described

tractetur placitum in curia domini sui de causa communi. Si est inter homines duorum dominorum socnam habentium respondeat accusatus in curia domini sui de causa communi. Wilk. 247.

^a 24.—*De judiciis fiscalibus. Super barones socham suam habentes habet judex fiscalis justitiæ legis observantiam et quicquid peccabitur in eorum personam. Nemo enim forisfacturam sui ipsius habuit sed fortasse dominus ejus.* Wilk. 247.

^b *Nec aliquis baro solus de hundredo, vel de eo placitet quod ad plures pertinet. Ll. H. 1, c. 48. Wilk. 254.*

in the same words in more early times. The Saxon Chronicle, under the year 905, mentions that Eadwold, a “cyninge’s thegen^a,” or king’s thane, was slain in battle, but Florence of Worcester calls him “*minister regis*,” and Henry of Huntingdon “*baro regis*.” Among the king’s barons, also, may be traced the same distinctions which existed among his thanes, and the conjectures we have submitted to the reader as to the privileges by which thanes of the highest rank were distinguished among the Danes, are confirmed by a reference to the laws of Henry the first respecting the barons of the king. It has been observed in a former page that there were certain forfeitures which the crown generally reserved to itself, and seldom delegated to subjects^b, but it appears that after the conquest it retained the jurisdiction over all capital offences, making exception only in favour of such barons and others as were related to the royal family, or entitled to distinction from their meritorious services^c.

^a C. S. 101.^b Ante, p. 148.

^c *De sokna, et thol et theam. Participantium quoque causarum partim in socna, i. in quæstione sua rex habet; partim concedit aliis. * * * * * Singulorum baronum, senatorum, et clericorum, laicorum, ubicunque terram habeant, sive sokna regis sit vel non, in capitalibus quæstionibus socna regis est, sicut a Knuti, vel Edwardi legibus per successiones*

These favoured barons answer exactly to the thanes in the Danelege, who were “further known unto the king,” or had “a more extensive judicial power.”

In the laws of Henry the first lords of manors are called, occasionally, either thanes or barons. The 37th requires mundbreche, and some other offences, to be compounded for to the king and thanes, evidently assuming that all judicial authority was possessed by them^a. And, in the 38th and 94th laws, the word “thanes” is used under such circumstances as to describe persons having courts^b. The fine for a contempt, known by the technical name of *overscunesse*, varied according to the dignity of the person to whom the court belonged, and, by the 35th and 87th laws, if it was the king’s or queen’s, the fine among the West Saxons was twenty mancæ, if the bishop’s or eorl’s ten, if a baron’s or thane’s five^c. And in the 41st law, after a thane had been mentioned as lord of a court, and it had been declared that every lord should receive this

posteris hæreditaria dignitas successit, nisi vel propinquante vel aliqua meritorum dignitate regis indulgentia, quemcunque respexerit, cujus amanda bonitas promovet potius, non evertit libertatem. Ll. H. 1. 20. Wilk. 246.

^a Wilk. 250.

^b Ib. 251, 283.

^c Ib. 250, 276.

penalty from his own vassals on his own land, and a rule had been laid down for those who held several feuds or manors, it was enacted that every baron or thane should receive from the vassals of another as much as was his due^a. Here “the baron or thane” alluded to must have been lord of a manor or larger district, for it was only in that character that this penalty could be due to him from the vassals or *homines* of another. As a strong proof of the identity of thanes and barons, it may be observed, that in the 76th law the were of a baron^b, and in the 88th that of a thane^c, as describing in each case

^a *Unusquisque dominus plenam overscunessam suam habet secundum locum et modum culpæ de homine suo, et qui sunt ejus super terram suam. Quod si diversos feodos, quis teneat overscunessam, quæ ad feodum attinet exinde tenentibus, et inibi forisfacientibus faciat. Super alterius vero homines tantum unusquisque baro vel thaynus recipiat quantum redderet ei. Et si dominus accusetur quod ejus consilio fugerit, allegiet se cum quinque thainis, et idem sit sextus. Ll. Hen. 1. Wilk. 251.*

For the 35th law see before, p. 3, note ^c.

Overscunessa regis ut diximus xx manc. Episcopi et comitis x manc. Baronis vel thaini v in Westsaxa, quæ caput est regni et legum, ad quam recurrendum est in omni dissidentia contingentium. Ll. Hen. 1. 87. Wilk. 276.

^b *Differentia tamen weregildi multa est in Cancio villanorum et baronum. Ll. H. 1. c. 76. Wilk. 270.*

^c — et alia est wera, vel vindicta thaini, alia villani sicut prædiximus, Ll. H. 1. 88. Wilk. 277.

the were of all the nobility, is contrasted with the were of a villan. There is a passage in an ancient author which proves the identity of thanes and barons in Scotland, for king David is said to have sent to a siege two thanes, explained in the book itself to be his barons, with their followers^a.

Below the barons of the king in rank were other barons, alluded to in the 7th law of king Henry the first^b. These appear to have been dispersed over the whole kingdom, for barons of the county are mentioned in the laws of Edward the confessor^c. In the 29th law of Henry the first, barons possessed of free lands are described to be the king's judges, contrasted with villans^d, and

^a *Rex igitur David duobus teignionibus, id est, baronibus, suis cum gente eorum, obsidione carrum commendata, &c. Ric. Hag. de bello Standardi.*

^b *Si quis baronum regis vel aliorum comitatus secundum legem interfuerit, totam terram, quam illic in dominio suo habet, acquietare poterit. Wilk. 240.*

^c *Quod per hundredum colligerentur et sigillo alicujus baronum comitatus sigillarentur, et ad thesaurarium regis deportarentur. Ll. Ed. Con. c. 15. Wilk. 199.*

^d *Regis judices sunt barones comitatus, qui liberas in eis terras habent, per quos debent causæ singulorum alterna prosecutione tractari, villani, vero, vel cocseti, vel pardingi, vel qui sunt hujusmodi viles, vel inopes personæ non sunt inter legum judices numerandi, unde nec in hundredo vel comitatu pecuniam suam vel dominorum suorum forisfacient, si justitiam sine judicio dimittant, sed summonitis terrarum*

in the 30th they are also noticed^a. If we have proved in the foregoing pages that barons of the king were the same as thanes of the king, it may be presumed that the lower barons answered to the medemræ, or less thanes, of the Saxons, and that they had the same rank and privileges. That there were barons not holding immediately of the crown, but dependent upon eorls or barons of the king, cannot admit of doubt^b, the barons of the eorl of Moriton are mentioned in the Exeter Domesday^c, and we find them also

dominis inforcietur placitum termino competenti, si fuerint vel non fuerint, antea summoniti cum secuti jus æstimatio.
Wilk. 247.

^a *Si quis baronum comitatus contra vicecomitem placitet, &c.*

^b The barons of Hugh Lupus, earl of Chester, may be put out of the question, for he was an earl palatine, and had *jura regalia*; but Henry the first granted to the abbey of Abingdon—*Et sartum, quod Robertus filius Hamonis dedit ecclesiæ, quod et inter Merlavam et Hamstede sicut designatum fuit per barones ipsius Roberti.* 1 Mon. 106.

By Parliament Rolls, 18. E. 3. earls had barons under them, and so by charters. Sir Roger Owen. Harl. MSS. 6606. p. 771.

Richard of Clare, earl of Hertford, by an instrument addressed to the bishop of London, &c. gave notice that he, by the advice of his barons and his men, had given the hermitage of Standon to his monks of Stokes. 1 Mon. 1004.

^c *Comes de Moritonio IX hid' et barones comitis hñt X et VIII hid' et I fertinum q̄ nunq̄ reddider̄ gildum testimonio Anglorum.* Ex. D. 72.

belonging to religious persons^a, or houses^b; but possibly no subjects ecclesiastical or lay, except those possessed of honours^c, had barons among their vassals.

The 23d law of William the conqueror states the relief of a baron to be paid to the king, and to be nearly the same as that fixed for a king's thane of the highest degree by the laws of Cnute; viz. four horses saddled and bridled, two halberts, two hammers, two shields, two lances, two swords, and besides, a hunter and a palfrey,

^a *Gervasius Dorobernensis*, speaking of the archbishops of Canterbury dividing the revenue between themselves and the monks, says, *Sibi etiam reservaverunt comites, barones, et milites; monachis vero assignaverunt rusticos et agricultores.* Somner, of Gavelkind. 124.

Brithelmus, archbishop of Canterbury, *temp. Edgar*, objected before an assembly to many things, and “*conditione baronum suorum et assensu ad curam solius Casinæ ecclesiæ relabi fecit.*” 3 Gale. 544. *Baronum* must be taken, not as a word of the time of Edgar, but of the monk who translated from the Saxon text, in which he might have found the word thane.

^b Rainald the abbot of Abingdon, and his barons, consulted together. *MSS. Cotton. Claud. C. 9. 136. b.*

^c *In vita Gualteri abbatis, cum verbum istud fuisset ubique divulgatum, accesserunt ad eum barones, milites, et liberi homines fere totius abbathiæ, &c.* *Spelm. Gloss. Baro.*

Per barones de honore de Ramsey. Lib. Ram. s. 224, cited Spelm. Gloss. 70.

with bridles and headstalls^a. By the 24th law the relief of a vavasor, which was to be paid to his liege lord^b, was the horse his ancestor had at the time of his death, his halbert, hamme, shield, lance and sword, and if he had neither horse nor arms, a hundred shillings^c. Here only two distinct classes of persons are alluded to, one paying reliefs to the king, the other to their lords, and we are led to presume that, within the description of either barons or vavasors, were included all persons obnoxious to the payment of heriots or reliefs, who filled the intermediate ranks between eorls and ceorls.

These dependent barons, i. e. enjoying the soc

^a 23. *De relevio baronis*.—De relief a barun 4 chivalz enseles et enfrenes, e. 2 halbers, e. 2 hammes, e. 2 escus, e. 2 launces et 2 espes, e. les altres 2 un chaceur, e. un palefrei a frenis e. a chevestres. *Ll. Will. Con.* 23. *Wilk.* 223.

^b *Si vero filium non habuerit (miles mortuus) et abiaticum de filio masculo reliquerit; pari modo beneficium habeat; servato usu majorum valvasorum in dandis equis et armis suis senioribus.* *Ll. Longobard. Spelm. Gloss. valvasores.*

^c 24. *De vavasoris relevio*.—De releif a vavasour a son lige signeur, deite estres quite per le chival son *peipe*^{*}, tel quil aveit a jour de sa mort, e. per son halbert, e. per son hamme, e. per son escud. e. per sa launce, e. per sespe, sil fust des apeille, quil ne ont ne chival ne les armes per c solz. *Wilk.* 223. See 2 Co. Inst. 8.

* Probably should be "peire."

of their own lands, but not *in capite* of the crown, were, about the time of the Norman conquest, denominated vavasors^a. The word is of foreign extraction, and vavasors are said by Spelman to have been first instituted in the empire. I shall not enter here into a further discussion of their nature and incidents than may be necessary to identify them with the medemræ, or less thanes of the Saxons.

The quotations just made from the laws of William the conqueror shew that a vavasor held of a liege lord, and that his relief was nearly the same as the heriot of a medemræ thane among the West Saxons by the laws of Cnute, and as his relief by those of Henry the first. By the laws of William the conqueror every free tenant in the Danelege, who had soc, sac, toll, tem, and infangenetheof, and lost his suit, forfeited in the county-court 40 ors to the use of the sheriff, but any other man, who had not these franchises, forfeited only 32 ors, that is, 10 to the use

^a Glanville calls *barones regis* all the barons who had courts, no matter of whom they held.—*Debet dominus rex de jure baronibus suis, scilicet, quod ob talem causam possunt sui barones curias suas in curiam suam ponere. Lib. 8, c. 11.* Spelman adds, *Sic in Continuatione ad Florentium Wigorn. An. Dom. 1140, Barones regis Franciæ Philippi appellantur de quocunque tenuerint. Gloss. Baro.*

of the king, 12 to his victorious opponent, and 10 to the lord in whose district he lived^a. These free tenants may have resembled those vavasors whose lands are distinguished by a separate title in the county of Suffolk in little Domesday-book, for they are denominated *liberi homines* in most of the entries, and it is observable that the soc of their lands is not always mentioned, but it is frequently, and in every instance I have examined (except one, where the king and the eorl had one half of the soc, and St. Adeldreda the other,) belonged to the king alone, or the king and the eorl jointly^b. This may be accounted for from the reservation made by the crown of the jurisdiction of all capital offences, and perhaps some other privileges, to itself; but subjects, those at least who possessed Honours, might, in

^a E al frans home, qui aveit sac, et soc, et toll, et tem, et infangenetheof, se il est emplaide et seit mis en forfeit en le counte, asiert il forfait a oes le vescunte XL ores en Danelae e de altre home, qui cest franchise non ad, xxxii ores. De ces xxxii ores arat li vescunte a oes le roi x ores, et cil, qui li plait, aura de remied vers lui xii ores, et le seigneur, en ki fin il maindra, x ores; co est en Danelae. *Ll. Will. Con.* 3. *Wilk.* 219.

^b *Terra vavasorum. Bosemera H. In Hamingestuna 1 lib hō de xx ac in soca regis, &c.*—2 D. 446. Vavasors are mentioned only twice in Domesday-book, pp. 53 and 146. b.

imitation of their sovereign, grant to their vassals authority to hold courts and exercise inferior municipal jurisdiction within their respective districts. These vavasors and their courts are mentioned in the 26th law of Henry the first^a, and the limits of their judicial power specified in the 27th^b. An instance of the delegation of the right to administer justice, made by a subject, may be found in the entry in Domesday-book respecting the possessions of the abbey of Ramsey, for five hides were held by socmen, or men owing suit to the courts of the abbey, yet claiming to have upon their lands certain penalties, if they did not amount to four-pence each, but if any exceeded that sum they belonged to the abbey^c. There was a great distinction

^a — *nec semel quidem salva curia vavassoris licere respectari. Ll. H. 1. c. 26. Wilk. 247.*

^b 27. *De libertate vavassor. Habeant autem vavassores, qui liberas terras tenent, placita, quæ ad wytam vel veram pertinent super suos homines, et in suo, et super aliorum homines, si in forisfaciendo retenti, vel gravati fuerint. Wilk. 247.*

The statutes of St. Louis enacted, “ Ne nus vavasseur
“ n’a le mordre, le rat, ne l’ancis, ne le traison, ne le tresor
“ trouvé, ne le force a oster, &c. Car vavasseur na que
“ simple justice.” *Du Cange. Gloss. Vavassores.*

^c *Terra Sæi Benedicti de Ramesyg. In Broctune. Ibi est terra sochorum v hid’ ad glā’ trā viii car, et vi boū. Isti sochī dicunt se habuisse legreuuitam et blodewitam et latro-*

between vavasors and barons, who held *in capite* of the crown, for if any dispute arose about the boundaries of the lands of the latter, it was to be settled in the king's court, but if one arose between the vavasors of two lords, it was referred to the county-court^a.

Among the lords of lands whose presence was expected at the county-courts, the 7th law of Henry the first specifies only barons, vavasors, and town gereffes. Therefore, putting the jurisdiction of towns out of the question, we are naturally led to the presumption, that in barons, meaning the holders of soc *in capite* of the crown, or in vavasors holding either under the crown, but not *in capite*, or under a subject lord, was vested the administration of justice in ordinary cases.

Shortly after the conquest, the title of thane fell tacitly into disuse, and in a few reigns was lost in that of baron. It is extraordinary that a title of honour, which for ages every subject was ambitious to obtain and proud to bear, should

*cinium sua usque ad IIII^r den̄ et post IIII denar̄ habeb' abb
forisfacturam latrocinii. D. 204.*

^a *Ll. H. 1. c. 25. Wilk. 247. which see in p. 217, note c.*

The lands of a vavasor were called a vavasory. And Bracton says, *Quod dicitur de baronia non est observandum in vavasoria, vel aliis minoribus feodis quam baronia, quia caput non habent sicut baronia. Lib. 2, c. 39, s. 6.*

have disappeared entirely in so short a space of time, and in a manner so imperceptible that we cannot trace it in history. But it is still more wonderful that all knowledge of the incidents and privileges attending this high rank, which existed for so many centuries, should be now nearly lost, and revived, occasionally, only as an object of curiosity to excite the discussion and conjectures of antiquaries and lawyers.

The barons of the king, except those who held honours or were specially exempted, as well as all other barons, were bound to attend at the county-courts. This appears by the 7th law of Henry the first, which, at the beginning, requires the attendance of barons and vavasors, with the other lords of lands^a; and afterwards enacts that any baron of the king or of others, who shall be present at a county-court according to law, or whose house-steward shall lawfully attend for him, or, if neither attended, the steward of the manor, priest, and four of the best men of the vill, appearing for all those who were not summoned by name, may secure the lord's demesnes from any claim or disturbance^b. That barons, probably including those of the king, were amenable

^a *Ante*, p. 217, note ^a.

^b *Si quis baronum regis vel aliorum comitatui secundum legem interfuerit, totam terram, quam illic in dominio suo*

to the courts of the hundred, may be proved by reference to the 60th of the same laws, whereby not only the sheriff, but the stewards of courts, had power to require the attendance of barons, in certain causes, upon such days as should be appointed^a.

In the first chapter of this work we have copied at length the law made in the reign of Æthelstan, by which the weres of the king and the different classes of nobles and freemen were regulated, and to which the reader may be referred^b. We shall confine ourselves here principally to the consideration of that portion of it only which relates to thanes and ceorls. In that law weres are estimated by two different calculations, one according to the laws of the Angles, and the other according to those of the Mercians; by the

habet, acquietare poterit. Eodem modo est si dapifer ejus legitime fuerit, si uterque necessario desit, præpositus et sacerdos et quatuor de melioribus villæ adsint pro omnibus, qui nominatim non erunt ad placitum summoniti. Wilk. 240.

^a *Si vicecomes vel præpositus aliquis de proprio placito suo diem ponat alicui baronum, et ad condictum terminum non veniat, convictus est, cum quo agebat, nisi competens eum necessitas detineat, si de capitalibus, et de propriis placitis regis sit. Ll. H. 1. 60. Wilk. 259.*

^b *Ante, p. 42, note b.*

former the were of the king was fixed at 30,000 thrymsas, and, omitting the intermediate ranks, the were of an ecclesiastical or secular thane was 2,000 thrymsas, of a ceorl 266, making 200 shillings, according to the law of the Mercians. In the latter the were of the king was fixed at 30,000 sceats, which are said to be equal to 120 pounds, and to be the value of the weres of six thanes; and that of a thane was 1200 shillings, being six times the value of the were of a ceorl, which was estimated at 200 shillings only. There seems to be some confusion in the figures, and in other respects the different parts of the law are not easily reconciled with each other. The king's were consisted, according to the law of one country, of 30,000 sceats, in the other of the like number of thrymsas, yet it is generally supposed that thrymsas and sceats were of different values. The proportion too, by which the king's were was regulated among the Mercians, was not attended to among the English, for in no mode of calculation can 2,000 thrymsas, the were of a thane, be made into the sixth part of 30,000; but the same difference between the were of a thane and a ceorl seems to have prevailed in both, 200 shillings, or as many thrymsas as amounted to that sum, being the were

of the latter, and 1200 shillings, or six times that value, being the regulated were of the former. Moreover, by no calculation can 266 thrymsas be made equal to 200 shillings, or 30,000 sceats amount to 120 pounds. Dr. Henry boldly and ingeniously conjectures that this law was made at two different times, the first part of it early in the reign of Æthelstan, when the value of a shilling was five-pence, and the latter part at a subsequent period, when it was reduced to four-pence. A thrymsa he supposes to have always been of the value of three-pence, so that in the latter case it was three-fifths of a shilling, and in the former three-fourths, and by this mode of calculation the two parts of the law may be made nearly consistent, for 266 thrymsas at three-fourths of a shilling each, will come to $199\frac{1}{2}$ shillings, and 2,000 thrymsas, which made the were of a thane among the Angles, at three-fifths of a shilling each, amounted exactly to 1200 shillings. It is unnecessary to pursue this subject further, for, whatever confusion may attend these calculations, it is expressly declared that, by the Mercian law, the were of the king was of the value of six times the were of a thane, and that of a thane six times the value of that of a ceorl. The calculation also of the amount in shillings of

the respective weres of thanes and ceorls, is made agreeably to that rule, for the were of a thane was fixed at 1200 shillings, of a ceorl at only the sixth part, namely 200.

The were of a thane seems never to have varied in the Saxon laws, but always remained fixed at 1200 shillings. This was the value set not only upon king's thanes, but upon all persons entitled to the privileges of the order of thanes in general. From this circumstance they were very frequently called twelve-hynds, or twelve-hynd-men, not with allusion to the property they possessed, but the amount of their weres. In like manner the name of six-hind-men or sixhinds, was given to a class of lower degree, from their were being fixed at 600 shillings. The were of a ceorl was 200 shillings, and he was called a twihindman or twihind. The sixhinds probably were not numerous, nor are they so often mentioned in the Anglo-Saxon laws, especially the more ancient ones, as either the twelfhinds or twihinds. I forbear to say more of them here, as they will be noticed more particularly in the ensuing chapter of this work. These denominations were compounded of the number of hundreds of shillings in the respective were of each individual, and the Saxon word "hynden,"

signifying a society, class, or tribe. A twelfhinde, therefore, was a member of a society or class, of whom the were of each was 1200 shillings, and so of the others. The twelfhinde were highly distinguished, and whoever attained this rank was fully noble, and placed upon an equal footing with a thane in all respects^a.

By a law of Ina it was provided, that if a number of persons assembled together killed a man, they were to pay a sum in proportion to his weregild; if that weregild was 200 shillings the fine for all was to be 50 shillings, and the same rule prevailed if the party killed was one of illustrious birth^b. In this case the fine for killing the person of greater dignity, was fixed by reference to the penalty imposed for killing the less dignified. And in the treaty made between Edward and Guthrun a similar reference was made to the were of the twelfhind, in order to ascertain that of a ceorl. In that treaty

^a *Twelfhindus est homo plene nobilis, et thainus cujus werea est duodecies c sol', &c. Ll. H. 1. 76. Wilk. 269.*

^b 34. *De homicidio. Qui in illorum collegio (fore) fuerit, ubi homo occiditur, justificet se ab illa cæde, et collegium compenset secundum occisi hominis æstimationem capitis. Si capitis illius æstimatio sint ducenti solidi, compenset quinquaginta solidis. Et idem jus fiat illustri familia ortis (theoborenran). Ll. Inæ. Wilk. 20.*

it is also stated that the were of a twelfhind-man was 1200 shillings, of a twihind-man 200 shillings^a. These two classes alone are also mentioned in the laws of Æthelstan, and in the *Judicia Civitatis Lundoniæ*^b. In the 69th law of Henry the first the manbotes of the twihinds and twelfhinds are fixed^c, but no notice is taken of any intermediate class.

^a *Æstimatio capitis hominis MCC solidorum* (twelfhyndes mannes) *est MCC solidi*; *ducentorum hominis* (twyhyndes mannes) *æstimatio capitis* (wer) *est CC solidi*.

Si quis occidatur, compensetur juxta nativitatem suam.

Justum etiam est, ut homicida postquam æstimatione capitis (weres) *promiserit, inveniatur fidejussorem ad eam solvendam juxta quod decet; hoc est ad æstimationem capitis* (were) *hominis MCC solidorum, requiruntur XII homines ad fidejussionem eam, octo cognationis paternæ, et quatuor cognationis maternæ. * * * * Quilibet æstimationem capitis coloni* (cyrlicum were) *solvere debet juxta modum, qui ad eum pertinet, uti de MCC solidorum homine diximus.* Wilk. 53, 54.

^b *Ante, p. 42, note b.*—*Et si eveniat ut aliqua cognatio adeo fortis, et adeo magna sit intra terram vel extra terram mille ducentorum solidorum, vel ducentorum solidorum, ut nobis rectum nostrum deneget, et furem defendat, ut eos adeamus omnes cum præposito* (gerefan) *in cujus mansionem* (monunge) *est.* *Jud. Civ. Lund.* Wilk. 67.

^c *Si quis Anglicus sine merito suo occidatur, secundum pretium natalis sui, et loci consuetudinem de wera parentibus componatur, et wyta et manbota domini sicut justum est ad*

In the laws of Ina geneats of the king and other lords are mentioned, and a king's geneat might enjoy the privileges of a thane, for it is enacted, that if his were was 1200 shillings he was to swear for sixty hydes in courts of justice^a. The word "geneat" is generally understood to signify a ceorl or husbandman^b, and we may

modum ipsius weræ; de twyhyndi hominis wera debent reddi, secundum legem xxx solidi ad manbotam, id est hodie v mancæ. De twelfhyndo, id est thaino, cxx solid' quæ faciunt xx mancas. Ll. H. 1. 69. Wilk. 265.

^a *Si capitis æstimatio coloni regii (kyninges geneat) sint mille ducenti solidi, jurare debet pro. LX hydīs, si S. Eucharista utatur. Ll. Inæ. 19. Wilk. 18.*

Si colonus tuus (thin geneat) furetur, et aufugiat a te, si fidejussorem habeas, admone eum ad simplicem compensationem; si non habeas, solve tu compensationem simplicem, et non sit ei aliquid remissum. Ll. Inæ. 22. Wilk. 18.

^b Wilkins translates this word by *colonus*, and in the Howard MS. it is rendered by *villanus*. A "geneat manna" is described in the laws of Edgar as liable to the payment of gafol or rent for his land, and serving under a lord who had power to punish him in a certain case with death.

Si colonus aliquis (geneat manna) negligat domini sui tributum (hlaforðes gafol), et hoc ei justis diebus non præstiterit (putatur). Si dominus misericors sit, ut hanc negligentiam remittat, et tributum suum absque pœna accipiat. His dependent situation is strongly marked in what follows: Si tum sæpe per exactores suos tributum (gafoles) suum requirat, et ille obduratus sit, ac cogitet vi eripere, (putatur) quod domini ira in tantum excrescat, ut ei

suppose that, though the one just mentioned stood in that humble relation to the king, he was, either by office or landed qualification, raised above his fellows. A king's geneat, Ethelferth, is mentioned to have been killed in a naval engagement, with a king's gerefa and two Frisians, who are also named^a.

The security of persons of all ranks in the peaceable occupation of their dwelling-houses, and the inclosures near or round them, was a principal object of the Saxon laws. In a law of Ina, which has been quoted in a former chapter^b, fighting within a house was punished by a fine proportioned to the rank of the occupier; if the house belonged to an ealdorman or other illustrious wite, it was fixed at 60 shillings, if to a gafol payer, at 30 shillings, if to a boor, 6 shillings. It may be remarked that the house of a thane is not mentioned, unless we may presume he was alluded to by the description of an illustrious wite. In the laws of Æthelbirth king of

nec possessionem nec vitam concedat. Ll. Eadg. Supp. Wilk. 79.

The word "geneat" may have been applicable to particular descriptions of persons, born in the service or on the demesnes of a lord, without reference to condition or rank in life.

^a C. S. 99.

^b *Ante*, p. 61, note ^a.

Kent, the oldest which have been preserved to us, the breaking into an inclosure was subjected to the penalty of 6 shillings, and the offence denominated *edor-breche* or *edor-bryce*^a. By the 45th law of Ina, as has been stated in a former chapter, *burhbryce* committed where the king or bishop exercised power, was punished by a fine of 120 shillings; when committed against an alderman, by 80 shillings; against a king's thane, by 60 shillings; and against a *sithcundman* possessing land, by 35 shillings^b; but no notice was taken of the humble habitation of a *ceorl*. The penalty in the laws of Ælfred, which have also been quoted before, for *burhbryce* against the king was 120 shillings; against an archbishop 90 shillings; a bishop or alderman, 60 shillings; a man of 1200 shillings, 30 shillings; a man of 600 shillings, 15 shillings; but the *edor-bryce* to be paid to a *ceorl*, was reduced to five shillings^c. It is observable that the appellation of *burhbryce* was appropriated to the violation of the peace of the habitations of the king

^a 28. *Si liber homo septi violationem (edor breche) fecerit VI sol' emendet. Ll. Æthelb. Wilk. 4.*

30. *Si liber homo septum superaverit (edor gegangeth) IV solidis emendet. Ibid.*

^b *Ante, p. 62, note c.*

^c *Ante, p. 63, note a.*

or great men, including even six-hind-men. We may therefore conclude, that their places of residence were distinguished above those of ceorls, and denominated burhs; and, if we may presume that the nobles who enjoyed this privilege were accustomed to administer justice at the gates or in the halls of their respective dwelling-houses, we may understand the policy of the law, which secured that duty from interruption by penalties proportioned to the rank of those who were selected to perform it, and far exceeding in value any imposed for similar offences committed against persons of more humble condition.

The relative situation of thanes and ceorls is no where so distinctly expressed as in the proceedings of the Anglo-Saxon courts of justice. The peers of thanes were thanes, of ceorls were ceorls, and in waging their law each was to be accompanied by compurgators of equal rank with themselves; the oath of athane being equal to the oath of six ceorls, in that proportion every thing concerning them in courts of justice was estimated^a. The foundation of this distinction

^a *Hii de quacumque compellatione capitali vel communi plane jurabunt, congruo numero consacramentalium et qualitate parium retenta, quia thani jusjurandum contravalet jusjurandum sex villanorum. Et si occideretur, plene vindi-*

is characteristic of the manners of the times, it was because, if private revenge was taken by a twelve-hind-man, his full revenge was to be had upon six ceorls, and therefore his were ought to be calculated in the same proportion^a. It is possible that, upon some occasions, the oath of a thane might be opposed to that of a ceorl, but whether, upon a deficiency of persons of the same condition, it was permitted to make up the requisite number of thanes by six times the number of ceorls, or of ceorls by a sixth part of the number of thanes, I have not been able to discover.

Among the other privileges of a thane was one, which, while it tended to exalt him in the eyes of others, must have been productive of great mischief to the public. A thief or robber, taking refuge with him, was received into his mund or protection, and might remain in safety for three days. But, if the thane permitted him to remain longer, it was at the peril of being treated himself as an accessory^b.

caretur in sex villanis. Et si emendaretur ejus were gildum est sex villanorum were gildum. Missæ presbyteri et secularis thani jusjurandum in Anglorum lege computatur æque carum. Francigenæ quoque, et Alienigenæ in verborum observantiis non frangunt. Ll. Hen. 1. 64. Wilk. 262.

^a Ante, p. 44, note ^b.

^b *Diximus etiam in concilio ad Thunrelfeldam, si fur aliquis vel prædo refugiat ad regem, vel ecclesiam aliquam, et epis-*

It is probable that the clergy were but too well inclined to shew favour to the thanes when charged with crimes, and that in order to check such partiality the 63d canon of Edgar was framed, which directed that a priest should not excuse a thane unless he had previously purged himself by oath in a court of justice^a, but he might do this by deputy^b.

If a thane had higher privileges he was in consequence obnoxious to severer punishments than a ceorl. Whenever he offended against the laws a heavier fine was levied upon him than upon those of inferior rank^c. A fine paid by him, in most cases, was 120 shillings.

copum illum, ut novem dierum spatium habeat. Et si ad senatorem, vel abbatem, vel thanum refugiat, habeat trium dierum spatium. Et si quis illam occidat intra spatium illud, tunc solvat patrocinium (mundbyrde), quod alter prius quæsivit, vel ipsum nonnulli 12 excusent, quod refugium ejus ignoraverit. Et quodcunque refugium quæsiverit, non sit vita dignus nisi per tot dies, quot hic supra diximus; et si quis eum ultra hoc spatium hospitio excipiat, omnium illorum reus sit ac fur ipse, nisi seipsum excusare possit, quod nullam fraudem, et nullum furtum in eo sciverit. Ll. Æthelst. Wilk. 63.

^a *Docemus, etiam, ut thanum sacerdos non excuset, nisi thanus præjuraverit. Wilk. 86.*

^b *Ante, p. 134, note b.*

^c *Et si quis sit potentior hic in mundo, vel per honorem superior in ordine, hic gravius peccata emendet, et omnia malefacta carius compenset. Conc. Ænham. Wilk. 124.*

Degradation from the rank of thane was the punishment of any person, who, having entered into holy orders, did not conduct himself in a becoming manner. He was then to be deprived both of his ecclesiastical and secular dignities^a. This was a peculiar case, he was ranked with secular thanes because he had been invested with spiritual powers, and when those powers were withdrawn he was not permitted longer to hold the dignity, which had been given only to render him more respectable and useful in the exercise of them. The same punishment was inflicted upon secular thanes, who in the characters of judges delivered unjust judgments^b, but I do not recollect that it was incurred by the commission of any other offence.

^a Every minister of God, and priest, who will *castitatem servare, habeat Dei misericordiam, et adhuc augeat mundi venerationem, ut sit æstimatione capitis thani* (thegen weres) *et jure thani dignus, tam in vita quam in cæmeterio. Et si quis hoc facere nolit, quod ordinem ejus decet, privetur dignitate sua, tam coram Deo, quam coram mundo. Concil. Ænham. Wilk. 120, 115. See also Ll. Æthelst. Wilk. 64. Ll. Cnut. 6. Wilk. 129.*

^b *Ante*, pp. 165, 166.

CHAP. IV.

OF SITHCUNDMEN, SIXHINDMEN, AND
LAND-AGENDE-MEN.

THE derivation and meaning of the word sithcundman have never been satisfactorily explained, and so little is to be found concerning it that much must be left to conjecture. It is evidently made up of three distinct words, "sith," "cund," "man." About the last there can be no doubt; the second means in composition "nature," "kind," or "kin;" we have *eorlcunde mannum*, for noblemen, or persons ranking with *eorls*^a, and *widuwān eorlcundne*, for a noble widow^b. We may therefore conclude, that the meaning of a sithcundman depends principally, if not entirely, upon the signification of the first word "sith," about which the most learned antiquaries differ in opinion. By some it has been derived from the Saxon word "sithian," to go, take a journey, &c. and the duty of the

^a *Ll. Æthelbirthi*. 74. Wilk. 7.

^b *Ll. Hloth. & Eadr.* 1. Wilk. 7.

sithcundman supposed to be of a military nature, requiring him to be at all times prepared to serve in arms on horseback. Another signification of the verb "sithian" is *abire*, to depart, go away, and hence may be derived the modern word "scythe," an instrument made to cut off and sever grass from the soil on which it grows. Adopting this sense of the verb, the word "sithe" might possibly be applied to any thing cut off or separated from another, and a sithcundman be so called from his connection with a district, jurisdiction, or body of men which had been so separated. Lye, in his Anglo-Saxon dictionary, translates "sith" into "such," and the constituent parts of the word sithcundman would then be "such," "kind," "man," which may be expressed in Latin by the words *ejusdem conditionis homo*, being always referrible to some antecedent description. This last hypothesis, if tenable, would be natural and satisfactory, but it unfortunately happens that the word in question is at some times used absolutely, and at others in such connection as to have no reference whatever to any person mentioned before. Besides, in a law of Ina where bishop Wilkins recognizes this signification, by referring it to its immediate antecedent, it would be descriptive of a person of the

same condition with a king's thane, while the penalty inflicted shews that a king's thane and sithcundman did not fill the same station in life, for if burhbryce was committed against the former, the penalty was 80 shillings, if against the latter, and he possessed land, only 35 shillings^a.

The synonymous words "gesithe" and "gesith-man," are found in Bede's ecclesiastical history, and, as has been observed before^b, are translated into Latin by the word *comes*, which had not then been made the appropriated title of an eorl, but retained its original signification of a companion generally. In the 6th law of Henry the first it is stated that counties were divided into hundreds and sippesocnas. This latter word Spelman suspects to have been a mistake of a transcriber for sithesocna, and he is confirmed by the circumstances of this being the only instance known of the use of the word sippesocna, and of no learning or ingenuity having been able to assign for it a probable origin or meaning.

^a *Urbis violatio (burhbryce) compensari debet centum viginti solidis ubi regis et episcopi sedes est, senatoris (ealdermannes) octoginta solidis, ministri regis (kyninges thegnes) sexaginta solidis, ejusdem conditionis hominis (gesithcundes mannes) terram possidentis triginta et quinque solidis. Ea his excusentur. Ll. Inæ. 45. Wilk. 22.*

^b *Ante, p. 75.*

Bishop Wilkins adopts the emendation^a, and supposes sithesocna to be compounded of the Saxon word socna, jurisdiction, and “gesith,” or “sith,” meaning “*cætus, fraternitas, societas*” “*quorundam hominum,*” and observes, that we still retain the word in the expression “what a sight of men,” &c. for what an assembly, &c. In this sense sithesocna may be properly applied to any court of justice where a great number of men are assembled. The divisions or sithesocnas therefore, alluded to in the law of Henry the first^b, may be all other privileged jurisdictions besides hundreds, whether known by the names of wapentakes, honours, or any other appellations. It may also be observed, that Cowell in his Interpreter, citing Dugdale’s Antiquities of Warwickshire, explains “sithe” or “gesithe” to be a division of a county, a riding, lath, rape, or hundred, and gives as instances the hundreds of Knightlow, Kineton, and Hemlingford, which, in the 16th year of Henry the second, were called *sithesoca de Enuchlelara*, *sithesoca de Chinton*, and *sithesoca de Humliford*. Hence he con-

^a Wilk. 239, note. The bishop seems to think that the head of a tything was a sithcundman.

^b *Ipsi vero comitatus in centurias et sippesocna distinguuntur, centuriæ vel hundreda in decanias vel decimas, et dominorum plegios. Ll. H. 1. c. 6. Wilk. 239.*

jectures that a sithcundman was the military commander of such a district, answering nearly to the high constable of a hundred in modern times. The word "sithscipe" also occurs in Bede in the signification of a separate society, not indeed of warriors, but of monks^a. Whether the members of a sithscipe might be denominated gesiths or gesithmen, must be left to conjecture. In other respects a reference to Bede will afford little satisfaction, for he mentions few circumstances which can lead to the discovery of the character of a gesith, or enable us to discover what constituted the peculiar incidents of his situation. We have noticed in a former chapter Puch, a comes or gesith, who lived hospitably with a wife and family near to a monastery, and was possessed of a vill, and being lord of one manor, gave another to the monastery with his daughter when she was made a nun^b; and Addi, another gesith, who presented to the monastery the estate on which he lived, with the advowson of the church there. These must have been persons of some consequence, and have ranked at

^a — et ab illo est vir præfatus consecratus antistes, adsumtis in societatem ordinationes (ge sithscipe) duobus de Brittonum gente episcopis, qui, &c. *Bed. Hist. Eccles. lib. 3, c. 28.*

^b *Ante, p. 77.*

least as lords of manors. In the year 667 Colman, a bishop of Scotland, bought a small piece of land in Ireland from a gesith, in order to erect a monastery upon it, and the gesith and all his neighbours assisted to build it^a. Oswin, king of Northumberland, in his adversity concealed himself with Tondhere, one of his attendants, in the house of Hunwold his gesith, and they were both treacherously delivered to Oswi, and put to death^b. This gesith must have been a dis-

^a — *emitque partem ejus non grandem, ad construendum ibi monasterium a comite ad cujus possessionem pertinebat, ea conditione addita, ut pro ipso etiam, qui eis locum commodaret consistentes ibi monachi domino preces offerunt. Et constructo statim monasterio juvante etiam comite, ac vicinis omnibus, &c.*

An he geboht noht mycelne dæl thæs landes mynster thære te getimbrianne æt sumum gesithe the that land ahte. thære (arædnisse) toæt yceddre that hi eac swy lce for hine sethe him tha stowe gesealde a tha standendan munecas thær to Drihtne cleopedan & for hine dingedon, and he hrathe thær mynster getimbrede, and him se gesith eac fultumade and ealle tha neah men. *Bed. Ecc. Hist. lib. 4, c. 4.*

^b *Divertitque ipse eum uno tantum milite sibi fidelissimo, nomine Tondheri celandus in domo comitis Hunvaldi — ab eodem comitem proditum eum Osuii cum præfato ipsius milite per prefectum suum &c.—morte interfecit.*

Tha gecynde he mid ane his thegne the him getreowastne tealde, thæs nama wæs Tondhere to Hunwoldes ham his gesithes, &c. forthen se ylca gesiith thurh Æthelwine his gerefan mid, &c. *Bed. Hist. Ecc. lib. 3, c. 14.*

tinguished personage, for in the Saxon translation of Bede he is said to have been the gesith of the fallen king, and his house was so large that the king and his attendant might be concealed in it. A young man named Imma, being wounded in battle in the year 679, was brought as a prisoner to the comes or gesithe of the victorious king, and disposed of by him^a. The appellation of "gesith," though generally applied to persons bearing a military or official character, was not confined exclusively to any class or rank in society^b, for we have noticed that monks might be members of a sithscipe, and when the wounded Imma, whom we have just mentioned, was carried before a gesithe, a commander of troops^c, he gave a false account of himself, pretending to be a country fellow, who, in company with others of the same condition in life, had brought provisions to the army. The Saxon translation describes his companions as his gesithes^d. In like manner, in the laws of Ina, ceorls are called gesithmen.

^a *Bed. Hist. Eccl. lib. 4. c. 2.*

^b *Intemerata servavit*—To his gesihthe becom. *Bed. lib. 4, c. 23*, where the title is applied to an abbess.

^c *Et ad dominum ipsorum comitem, videlicet Ædilredi regis adductus.*—To heora hlaforde that thæs Æthelredes gesith thæs cýninges. *Ibid.*

^d Tha onfeng se gesith hine, and his gymenne dýde.—*Se cum suis similibus venisse testatus est.* *Ibid.*

If any one received into his family a ceorl who fled from justice, he was obliged to pay his own were, but if he refused he was compellable to pay his own were, and then his gesithman was bound to pay his were also^a. Here the stranger, by being admitted into the family of another, became the gesithman of his host. And this may serve to explain another law of the same king, by which, if any one killed a stranger, the king had two-third parts of his were, his children and relations the remainder, but if he had no relations, one half went to the king, the other half to his gesith^b. The Saxon laws were exceedingly strict in compelling every man to reside within the manor or district to which he belonged, and this law enacted, that if he wandered into another and was there killed, and had no relations, his were was to be divided equally

^a 30. *Si quis colonum fugitivum* (cyrlicne mannam flyman) *hospitio excipit, et eum nutrit, proprii capitis æstimatione excuset ipsum. Si hoc nequeat, compenset ipsum propria capitis ejus æstimatione* (his agenum were) *et socium* (se gesithman) *etiam juxta capitis sui æstimationem* (his were). *Ll. Inæ. Wilk. 19.*

^b 23. *Si quis peregrinum occidat, rex habeat duas partes æstimationis capitis* (weres), *tertiam partem liberi vel cognati. Si autem cognatis destitutus sit, dimidium rex habeat, dimidium socius* (se gesith). *Ll. Inæ. Wilk. 18.*

between the king and the person in whose house he had been sheltered, who had, we may presume, become his companion or *gesith*.

The word "*comes*" has been the subject of discussion in a former chapter; it was originally applied to a companion in general, but by degrees became in a peculiar manner the designation of the companion of a king, and the appropriate title of an *eorl*. The word "*gesith*" was not so highly honoured, but, retaining its original meaning, was applied to the description of persons of inferior rank in life. Of *eorls*, whatever they might have been in Bede's time, *gesithes* certainly were not the *comites*, or equals, in the later periods of the Anglo-Saxon history, nor have we reason to conjecture that they were the peers of either king's thanes or any other thanes.

The word "*gerefa*," as well as "*comes*" and "*gesithe*," in its original signification imported "a companion," "an associate," though, like them, it was afterwards changed into the name of an officer; and possibly, when the king's companions had assumed almost exclusively the titles of *eorls* and *comites*, his inferior officers still continued to bear the names of *gerefas* or *gesithes*. Some of our readers may perhaps

suspect that these two latter were only synonymous appellations, and that when not applied to companions in general, but used in a restricted sense, they properly described the principal officers in sithesocas, hundreds, burhs, manors, or any other inferior courts or districts. And here another hypothesis for the explanation of the word "sithesoca" presents itself, for that jurisdiction might take its name from the gesithe^a appointed to preside over it, without reference to its separation from other courts. In support of this conjecture it may be urged, that the word "gerefa" by degrees superseded that of "gesithe," for at the time of the conquest the latter was entirely disused, and the sheriffs of counties, and the king's stewards, and deputies for the administration of justice, were universally denominated gerefas. When Bede wrote, however, that probably was not the case, for the appellation of gesithe is given by him to persons having great military rank, and possessing considerable power, property and jurisdiction.

The appellation of "sithcundman" occurs in

^a The words "sithe" and "gesithe" are the same, the syllable "ge" in composition being frequently dormant. Lye says, *Sæpius scilicet otiosum est*. Johnson calls it "*augmentum* of the preterit."

the laws of Wihtred, who began to reign in the year 691, but does not seem to have been long in use, for it is not mentioned in any laws after the reign of Ina, who died about the year 726. This may be readily accounted for if we suppose that it was derived from the word *gesithe*, and fell into disuse with it.

Little is now to be gleaned concerning *sithcundmen* from our ancient laws and histories, but we shall present to our candid readers the result of our inquiries, with a few remarks, leaving, however, much to their own conjectures.

A *sithcundman* was of superior rank to a *ceorl*, for, by the law of Wihtred above alluded to, if he lived in unlawful concubinage he was to pay to his lord 100 shillings according to the ancient law, but a *ceorl* was to be mulcted in only half as much, namely, 50 shillings^a. This punishment was not inflicted for the first time by this law, which is one of the earliest documents now remaining of Anglo-

^a *Si accideret ut præpositus paganus (ge sithcundne mannan) post concilium hoc, illicito concubitu sperneret præceptum regis, et episcopi, et libri judicialis, domino suo compenset centum solidos juxta jus vetus. Si sit colonus (ceorlisc man) quinquaginta solidos compenset, et nihilominus concubitum cum pænitentia deserat. Ll. Wihtr. Wilk. 10.*

Saxon jurisprudence, but only revived and enforced, for it is expressly mentioned to have been known in the *old law* before that time.

Sithcundmen may be divided into two classes, those who were possessed of land, and those who had none. This division is strongly marked in the before-mentioned law of Ina respecting burh-brice^a, and also in another law of the same king, which enacted, that if a sithcundman was possessed of land and did not attend the fyrde, he should pay 120 shillings and lose his land, which was the punishment inflicted upon a thane for a similar offence, but if he was not possessed of land he forfeited only 60 shillings. The fyrd-wite of a ceorl was 30 shillings^b.

We are told in the *Judicia Civitatis Lundoniæ* that if a ceorl, possessed of five hydes of a certain description, was killed, his were was 2,000 thrymsas, which had been before stated to be the were of a thane^c, whence it may be inferred that he became a complete thane, entitled to all the

^a *Ante*, p. 62, note ^c.

^b *Si præpositus paganus terram possidens* (ge sithcundman land agende) *milites providere nolit* (fyrde forsitte) *solvat cxx solidos, et perdat terram suam. Si non possideat terram* (unlandagende) *Lx solidos. Colonus* (ceorlisc) *xxx solidos pro militiæ detractatæ mulcta* (fyrd wite). Wilk. 23.

^c *Ante*, p. 42, note ^b.

other privileges of the order, and of course elevated above a sithcundman, who is universally admitted to be of inferior rank. But it is possible that the were of the ceorl, possessed of five hydes of land, might be raised to that of a thane without occasioning any further alteration in his condition; he might still remain a ceorl, and that he did so may be argued from the law itself, which describes him, not as a thane, but a ceorl having five hydes of land. Besides, in order to give him the full rank of a thane it was necessary not only that he should possess land, but that he should be honoured with a seat in the king's hall, and possess other qualifications. The question then is, what was the rank and title of a ceorl who had acquired five hydes of land subject to attend the fyrde, but was not qualified in other respects to be advanced to nobility. If we suppose him to be the sithcundman, having land, we may understand why his non-attendance upon the fyrde was punished by the same penalty as a thane's, for he had the same quantity of land, and was liable to all the military services of one, and why, because not being of equal dignity with a king's thane, his burhbryce should be less.

It may be said, that a ceorl who had a smaller quantity of land than five hydes fell within the

description of a sithcundman who had land ; but it may be answered, that such ceorls as had only smaller portions of land than five hydes, if any alteration at all was made in their situation by possessing them, would be reckoned more naturally among the sithcundmen who had no land. It can scarcely be imagined that the possession of real property of even the most trifling value could operate to the elevation of ceorls above their peers.

In order to discover the sithcundman having no land, it will be necessary to refer again to the quotation made in a former chapter from the *Judicia Civitatis Lundoniæ*^a. It is there stated that the bare acquisition of five hydes of land raised the were of a ceorl to 2,000 thrymsas, which constituted the were of a thane, but that, without having so much land, his were remained the same, though he had a helmet, breast-plate, and sword inlaid with gold, which we may presume were the arms of a thane. The law proceeds to enact, that if the son or grandson of the ceorl possessing these arms acquired the necessary landed qualification, his were should be also advanced to 2,000 thrymsas. The Saxon expression is very strong, and indeed, if I

^a *Ante*, p. 42, note ^b.

understand it rightly, expressly points out and describes a sithcundman having no land, or not sufficient to give him the privileges of a thane. By the terms of this law, if the son or grandson of a ceorl who was possessed of the arms before mentioned acquired five hydes, he became "offspring gesithcundes cynnes," which Wilkins translates, *soboles ejusdem conditionis*^a. Taking the word gesithcundes to refer, in the natural grammatical construction, to the last immediate antecedent, it will be found to relate to the word thane, as we observed it did upon a former occasion to a king's thane. But not to rely upon this argument, it is obvious that the son and grandson, who acquired the land, was not himself the gesithcundes cynnes, but the offspring or *soboles* of one, and the proper description of the sithcundman here alluded to must be found in the father or grandfather, who appears to have been a ceorl without land, but having the honourable arms of a thane, and serving personally as one. If, therefore, he did not perform his duty to the fyrde, he forfeited double the sum of an

^a Du Cange, in his Glossary, under the word *sithcundus*, translates the passage as follows:—*Et si filius ejus, vel filius filii ejus hoc assequatur, ut tantum terræ habeat postea, est qui nascetur ex eis sithercunde generationis, ad 11 millia thrymsarum.*

ordinary ceorl, but as he could bring no vassals in his train he paid only the half of the penalty imposed upon a thane, or a sithcundman having land.

By the 54th law of Ina any man accused of homicide in a deadly feud was to clear himself on oath in the king's court at the rate of thirty hydes, in the same manner whether he was a sithcundman, a ceorl, or any other person, but if he was found guilty he was to pay to the court the proper fine and deliver up his breast-plate and sword, if necessary, for his were^a. The objects of this law must have been persons of elevated condition, for the charge made against them was to be heard before the king in the supreme court, and they were required, if found guilty, to give up their arms, which were such as belonged exclusively to persons of rank and consequence. The deadly feuds of the higher ranks of nobility and

^a *Qui capitalis inimicitiae sit accusatus, et ipse juramento homicidium negare velit, tunc fiat in societate regale (hyndenne an kyning) jusjurandum pro ratione xxx hydarum, sicut de præposito pagano (ge sithcundum men), sic de colono (cyrlicum) sive alio quocumque. Si vir ille reus sit, tunc societati (hyndenna) hujusmodi virorum persolvat, et thoracem et gladium pro capitis aestimatione, si opus sit; libertate mulctatus (wite theowne monnan) Waliscus debet cogi per xii hydas, sicut servus per verbera. Anglus vero per xxxiv hydas. Ll. Inæ. 54. Wilk. 23.*

of thanes, were regulated by certain laws, and offenders among them tried at established tribunals, but a new legislative provision might be necessary to restrain the martial spirit of a race of men daily growing into wealth and power, and assuming, with the arms of the nobles, their arrogance and impatience of control.

In the few passages of the Anglo-Saxon laws mentioning sithcundmen, all of which are collected in the notes to this chapter, nothing will be found repugnant to the conjecture just submitted to the reader. A sithcundman is no where represented as the lord of land, or possessed of municipal power or jurisdiction; on the contrary, he appears to have been the vassal of a superior lord. Thus, if he lived in concubinage, his mulct was to be paid to his lord, as has been mentioned in a former page^a, and if he made peace with the king, or the king's ealdorman, for his family, or with his lord for a slave or free servant, the steward of neither could call upon him for a wite for not having prevented an offence^b. The necessity

^a *Ante*, p. 254.

^b *Si præpositus paganus (ge sithcund mon) paciscatur cum rege, vel cum regis senatoribus (kyninges ealdormannum) pro familia sua, vel cum domino suo pro servo vel libero, præposito non habeatur ratio ulla pænæ (nan wite) quoniam nolebat prius malum averruncare domi. Ll. Inæ. 50. Wilk. 22.*

for securing the king's peace, or the alderman's, for his family, is a decisive proof that he could not, like a thane, take it under his own protection and be answerable for it. This application to his lord for peace for his dependents, whether free or servile, shews that he had no power to secure them against aggressors beyond what was possessed by ordinary ceorls. When he attended the fyrde, however, he was permitted to assume some state, and might take with him his gerefas, his smith, and the nurse of his infant child^a, and he was protected from open violence, for if any man expelled him from his house, the offender was not permitted quietly to enjoy it^b. The attendance of his gerefas imports that the sithcundman, above described, was a person of consequence; but, though the word gerefas in modern times was given to a steward of a manor, or inferior officer, it may be doubted whether, in this law, the persons

^a *Cum præpositus paganus* (ge sithcund man) *itineratur* (fare) *tunc debet habere* (thonne mot he habban) *secum præfectos suos* (his gerefan), *et fabrum suum, et nutricem infantis sui.* *Ll. Inæ.* 63. *Wilk.* 25.

^b *Si quis præpositum paganum* (ge sithcundne man) *expellat profugio* (adryfe fordryfe) *ideo domus non erit illius sedes.* *Ll. Inæ.* 68. *Wilk.* 25. The Howard MS. renders this passage, *Si homo sithcundo fugerat profugio domus non erit ipsius sedes.*

described were not the companions and associates of the sithcundman, or, in other words, his attendants in general.

WE have shewn, in a former chapter of this work, that the great mass of the freemen of England below the rank of eorls were divided, according to the value of their respective weres, into twelfhinds, sixhinds, and twihinds. The were of a twelfhind was equal to that of six ceorls or twihinds, and double that of a sixhind. That of a sixhind was just the half of a twelfhind, and the double of a twihind, so that he occupied the middle rank between them; he was not fully noble, but was a privileged ceorl. This consideration naturally induces a suspicion that sixhinds were in effect sithcundmen, who, we have seen, occupied a similar situation; and this receives some confirmation from the consideration that the latter are not even mentioned in any law after the reign of Ina, and that the first notice taken of the latter is in the laws of that king. But it may be objected, that the were of a ceorl having five hydes of land of a certain description, was not 600 shillings, but 1,200; it was not the were of a ceorl, but of athane. If then sithcundmen and sixhinds were the same, the conse-

quence must be, that a ceorl possessing five hydes of land belonged to neither of these descriptions, for he was elevated above them, and we presume that the inferior sithcundmen only, that is to say such as had less than five hydes of land, or none at all, made up the class of sixhinds. No inference whatever can be drawn from the declaration in the laws of Ina, that a Welshman or stranger possessed of five hydes of land was a sixhind^a, for his were, and the fines he was to pay, were not regulated by the same rules as those of an Englishman.

The laws of Ina allude to twihinds, sixhinds, and twelfhinds, as descriptions of persons well known at that time, and direct that out of their respective weres shall be deducted manbote, being thirty shillings out of the were of the first, eighty shillings out of that of the second, and one hundred and twenty shillings out of that of the third^b.

^a *Wallus si habeat quinque hydas, sexcentis [solidis æstimandus] est.* The words within brackets are supplied in the translation. *Ll. Inæ.* 24. *Wilk.* 18. See further as to Welshmen, *Ll. Inæ.* 23. *Wilk.* 18. *Ll.* 32. *Wilk.* 20. and *Jud. Civ. Lund.* *Wilk.* 71.

^b *Ex æstimatione capitis ducentorum solidorum (twyhyndum were man) solvi debent pro homicidio (to manbote) xxx solidi, pro sexcentis (syx hyndum) octoginta solidi, pro mille ducentis (twelf hyndum), centum viginti.* *Ll. Inæ.* 70. *Wilk.* 25.

Sixhinds are frequently mentioned in the laws of Ælfred, and there is no doubt that, though they are not noticed in those of any later king, down to Henry the first, they must have existed as a known description of persons through the whole Anglo-Saxon government. In the laws of the last-mentioned prince, written in Latin, the wives of the individuals composing the three classes are distinguished by the appropriate names of *cyrlicsa*, *sexhinda*, or *twelfhinda*^a.

The house and curtelage of a sixhind was protected by a law of Ælfred, whereby whoever fought within it was to pay to the owner, if a *ceorl*, six shillings, but only the half of that sum if he grasped his arms and did not fight; if either of these offences was committed against a sixhind, the last-mentioned fine was trebled; and if against a twelfhind, the increased penalty was doubled^b.

^a *Pecunialis autem emendatio legibus inventa est, si desponsata femina fornicetur, et cyrlisca, vel syxhinda, vel twelfhinda sit et corporalis diffactio persistentibus instituta. Pensandum autem est per visum accusantibus visum concubitus propensius advertendum, ut scilicet ipsas coeuntium naturas viderit commisceri. Ll. Hen. 1. 82. Wilk. 274.*

^b *Si quis in coloni area (cyrlicses mannes flette) pugnet colono (ceorl) sex solidis compenset; si ferrum stringat, et non pugnet dimidium ejus; si horum aliquid homini 600 solidorum accadat, triplex excrescat compensatio (seo bote)*

In like manner the marital rights of the three classes were protected by appropriate fines; if a man lay with the wife of a ceorl he paid forty shillings, if with the wife of a sixhind 100 shillings, if the wife of a twelfhind 120 shillings^a.

It seems by another law, that if a man fornicated with the wife of a ceorl he was required to pay to the husband (we may presume besides the were exacted by the former law) 60 shillings, and in case of a sixhind being the party injured, 100 shillings were paid to the husband, if a twelfhind, 120 shillings^b. These regulations are alluded to in a law of Henry the first, quoted in the preceding page for another purpose.

By a law of Ælfred, if an innocent ceorl was killed in a hlothe or predatory party, consisting *pro coloni æstimatione* (ceorliscan bot) *homini* 1,200 *solidorum*, *duplex sit pro æstimatione hominis* 600 *solidorum*. *Ll. Ælfr.* 35. *Wilk.* 43.

^a *Si quis rem habeat cum duodecies centum (solidorum) hominis uxore, centum viginti solidos solvat pro æstimatione capitis. Sex centum solidorum hominis centum solidis emendet. Coloni (ceorliscum men) quadraginta solidos, &c. Ll. Ælfr.* 10. *Wilk.* 37.

^b *Si cum maritata uxore concumbat, si sit coloni (cierlisc) sexaginta solidis compenset ei ad quem pertinet, et hoc in viventi possessione pecunia componatur, et nullus homo propterea vendatur. Si sit sexies centeni hominis, centum solidis compenset ei ad quem pertinet. Si illa sit duodecies centeni hominis centum viginti solidis compenset ei ad quem pertinet. Ll. Ælfr.* 18. *Wilk.* 39.

of from seven to thirty-five persons^a, each was to pay his were and proper wite, and also 30 shillings penalty for being concerned in the hlothe. In like manner, if a sixhind or twelfhind was killed, the offender was obliged to pay the appropriate were and wite, and in the former case 60 shillings, in the latter 120 shillings, for being in the hlothe^b. A similar law is found in the code promulgated by Henry the first, except that the hlothbote of a twihind and twelfhind being allowed to remain as in the laws of Ina, that of a sixhind is reduced to 40 shillings^c.

In the translation of the last-mentioned law of Ælfred in the *Textus Roffensis*, a radcniht is said to have been called by some of the English

^a *Fures appellamus septem hominum, a septem usque ad xxxv turmam (hloth), et deinde esto exercitus. Ll. Inæ. 12. Wilk. 15.*

^b *Si quis hominem ducentorum solidorum innocentem cum turma (mid hloth) occiderit, solvat qui homicidium hoc confessus est capitis æstimationem et mulctam; et quilibet homo, qui ex ea parte fuerit, solvat xxx solidos pro compensatione turmæ. Si sit sexcentenus homo, quilibet pro compensatione turmæ solvat sexaginta solidos, et interfector capitis æstimationem et mulctam. Si sit duodecies centenus homo quilibet eorum centum viginti solidos det, et interfector capitis æstimationem et mulctam. Si, &c. Ll. Ælfr. 26. Wilk. 40.*

^c *Si quis occidatur in a hloth reddat interfector weram parentibus et manbotam domino; et omnes, qui interfuerunt, hlothbotam sicut emendent twihindeman xxx sol', sixhinde xl sol', twelfhinde cxx sol'. Ll. Hen. 1. 87. Wilk. 276.*

a sixhindman^a. Radcnihts are mentioned in Domesday-book, but not frequently, and chiefly in the counties bordering upon Wales. From the quantities of land possessed by them it cannot be inferred that they were of sufficient consequence to be classed with the sixhinds, still less, from the paucity of their numbers, could it be presumed that they formed the whole of that class. The tenure by which radcnihts held their lands, and the services consequently performed by them, will be the subject of future consideration. Their principal duty, and from whence they were supposed to derive their name, was the accompanying their lord from one manor to another on horseback^b, in order to protect his person when riding about the country. An occupation well suited to a sixhindman, if by that name we understand a ceorl, who had prospered so as to be possessed of a horse and the

^a In a Latin translation of the laws of Ælfred, c. 26, just quoted, *Si quis per hloth occiderit hominem, quem quidam Angli vocant twihcende et alii ceorlman, qui illum se occidisse, &c. Si autem talis occiditur, qualem supra nominavimus radcniht, et quidam Angli vocant sex hændeman, occisor solvat wære et wite et quisque sociorum ejus LX ta solidos. Text. Roff. 38. See Wilk. 40.*

^b *Dicuntur radknights, qui debent equitare cum domino suo de manerio in manerium, vel cum domini uxore. Bract. lib. 2, c. 35, n. 6.*

arms of a thane, without the other necessary qualifications to give him the full rank of one.

IN the ecclesiastical code of laws made for Northumberland, about the latter end of the 10th century, mention is made of an intermediate race of people between thanes and ceorls, but the particulars noticed are so few that it is not possible to make out a satisfactory account of them. They are described in Saxon as “land-agende-men,” men having land; and from this denomination, and the general tenor of the laws regarding them, appear to have been proprietors of real property^a. They are generally mentioned between king’s thanes and ceorls, as with them comprising the whole landed interest of the country. These

^a The Saxon word “agan” to have, seems to express more than the bare possession of a thing, and “agende,” derived from it, to mean not merely an occupier, but a proprietor, or perhaps more correctly, a proprietor who is in possession of a thing. *Si quis alterius viri bona furetur et proprietarius (agend) ea postea arripiat. Ll. Hloth & Ead. 7. Wilk. 8. Si quis investiget pecudem in alia terra, educat illam terræ dominus (that land age). Ll. Æthelst. 2. Wilk. 63.* It is to be lamented that bishop Wilkins has not always translated this word in an uniform manner. In the last passage quoted he who “had” the land is made to be the “lord;” in the former the expression is rendered into the “proprietor,” and, in several of the passages quoted in the notes to this part of our work, the “possessor.”

Northumbrian laws were made for the suppression of paganism, and the full establishment of Christianity in a country which had only just begun to feel the blessings of its promulgation, and are directed with apparent minuteness and severity against those who should persist to countenance the ancient religion, or not support the new. Consequently, we have no provisions for protection of the lives, persons, or properties of those who lived within their jurisdiction, and we attain the little knowledge we can collect, only from the penalties imposed for offences against religion. A king's thane who exercised paganism, sorcery, or poisoning, or worshipped an idol, was to pay ten semi-marcs, but a proprietor of land was to forfeit for a similar offence, six semi-marcs only, and a husbandman twelve ors^a. In case any of the culprits denied the charge, they were to exculpate themselves according to their respective ranks. To the king's thane were to be named twelve compurgators, and he was to take twelve relations and twelve strangers, and if he

^a 48.—*Si igitur aliquis notus fiat quod paganismum aliquem exercuerit, vel sortilegio, vel stupefactione, vel aliquo veneficio delectetur, aut idola colat, si sit regis thanus, solvat x semi-marcas, dimidium Christo, dimidium regi.*

49.—*Si sit alius terræ possessor (land-agende-man) solvat vi semi-marcas, dimidium Christo, et dimidium fundi domino.*

50.—*Si sit rusticus (færbena) solvat (gilde) xii oras.*
Wilk. 100.

did not clear himself, he was to pay ten semi-marcs for a lahs-lite; it is not said that the twelve to be named to him were to be king's thanes. But if a proprietor of land asserted his innocence, as many of his equals were to be named as in the case of a king's thane, and if he failed to exonerate himself he paid a lahs-lite of six semi-marcs. In like manner, to a cyrlisc man or ceorl were to be named as many of his equals as to the others, and if he failed he paid a lahs-lite of twelve ors^a.

In these laws the difference of rank between the respective classes, is pointed out by the difference of the penalties inflicted upon each individual, and though a proprietor of land was greatly exalted above a ceorl, he was much inferior to a king's thane. In like manner, if a king's thane failed to pay tythes he forfeited ten semi-marcs, if a proprietor of land made default his penalty was six semi-marcs, and of a ceorl

^a 51.—*Si regius thanus negaverit, tunc nominentur ei XII et sumat XII cognatos et XII peregrinos, et, si deficiat, tunc solvat pœnam violatæ legis (lahsliht) decem semi-marcas.*

52.—*Si terræ possessor (land-agende-man) neget, tunc nominentur ejus æquales (his gelican) tot, quot thano regis, si hoc ei defecerit, solvat pœnam violatæ legis (lahsliht) VI semi-marcas.*

53.—*Si colonus (cyrlisc man) neget, tunc nominentur ei æquales ipsius tot, quot aliis: si hoc ei defecerit, tunc solvat pœnam violatæ legis (lahsliht) XII oras. Wilk. 100, 101.*

twelve ors^a. The beginning of this law implies that, within one or other of the descriptions there given, every person liable to the payment of tythes was included.

The proprietors of land, thus exalted above ceorls, do not seem to have been ranked among the lords of land. Peter-pence was collected in a different manner from tythes; two faithful thanes and a priest were nominated to this duty, and accounted for what they received on oath. Every townsman or occupier of land was obliged to pay his quota to his lord, or forfeit to him a penny and an ox, and if a king's thane or lord of land detained the money he paid ten semi-marcs, half to Christ, and half to the king^b.

^a 60.—*Si quis decimas detineat, et sit regis thanus, solvat x semi-marcas; terræ possessor (land agende) vi semi-marcas; colonus (ceorl) xii oras.* Wilk. 101.

^b 57. — *volumus etiam ut in quolibet wapentachio nominentur duo fideles thani, et unus presbyter, ut eum colligant, ac deinde tradant, prouti audeant jurare.*

58.—*Si regius thanus vel aliquis terræ dominus (landrica) eum detineat, solvat x semi-marcas, dimidium Christo, dimidium regi.*

59.—*Si aliquis villaticus (tunesman) denarium celet, vel detineat, solvat terræ dominus (landrica) illum denarium, et sumat bovem unum ab illo homine: et si terræ dominus (landrica) hoc negligat, tunc capiat Christus et rex in plenam compensationem xii oras.* Wilk. 101.

The word "tun" does not always signify a town, but is

In this arrangement for the payment of Peterpence no mention is made of the proprietors of land, and as we cannot presume they were excused from the payment of this tax, they must have been included in the description of lords of land, or of tunesmen. Either supposition would be attended with difficulties, and a reference to other parts of the Northumbrian code will not assist in solving them. It is not impossible that the "land-agende-man" may have obtained the appellation either from his having been the proprietor of five hydes of land, without possessing the other qualifications necessary to raise him to the rank of athane, or from his possessing only a smaller quantity than five hydes. Like sithcundmen and sixhindmen, persons of this description might have formed an intermediate class between thanes and ceorls, deserving rather the name of privileged ceorls than nobles, but in what further particulars, if any, there was a resemblance, it is impossible now to state with precision, and difficult even to conjecture.

used sometimes for a farm; thus, "tunes mannum" was the occupier of a farm. Wilk. 81. See also, ib. 38. We have also "mannes tune," and "eorles tune," ib. 3. And "kyninges tune," ib. 2 & 34. "Tunscipe" occurs ib. 81.

CHAP. V.

OF FREEMEN,

INCLUDING

CEORLS, GAFOL-PAYERS, VILLANS, BORDARS,

COTTERS, COSCETS, HIRED SERVANTS,

FREEDMEN, AND BURGESSES.

HAVING in the preceding pages endeavoured to explain the situation, privileges, and incidents of the higher orders among the Anglo-Saxons, we shall now proceed to a similar inquiry respecting the lower ones; viz. the free, and the servile. To discover and point out the distinguishing characteristics between these classes is indeed a difficult task, for little is to be collected from written documents or memorials, and faint traces of the political relations of the inhabitants of England with respect to each other, before the conquest, are found in the scanty materials preserved in our ancient chronicles and histories. Much therefore in these researches must necessarily be left to conjecture, and offered to the public with diffidence.

Great confusion arises from the words *freo* or *frig*, being used in various significations^a by those who have written in the Saxon language, and a reference to the monkish writers, or to public instruments, drawn up in Latin or translated into it, will afford little assistance, for we find the corresponding word *liber* applied indiscriminately to landholders distinguished by

^a The word “frian” is used sometimes in a manner which it is difficult to understand. In the 42d law of Ina ceorls were protected in the inclosure of their lands, and if an ox became mischievous, and could not be kept within the hedge, the owner was directed to drive him to the division of his land and kill him; and bishop Wilkins translates the words “and nime se agen frigea his flæst and dolige thæs othres,” into *et dominus proprius accipiat carnem ejus et perdat reliquum*. Wilk. 21. I suspect the word “frigea” is improperly translated by “dominus;” its general signification is free, as in the 50th of the same laws a sithcundman is mentioned as having in his family slaves and free (frige), Wilk. 23; and in the 70th a slave and a freeman (frigea) are contrasted. Wilk. 26. The 22d of Cnute’s laws has nearly the same expression as is used in the 42d law of Ina, for, after enacting that if a purchase is made without the presence of witnesses, the purchaser can call no one to warrant the goods, it goes on, *Sed detur libero homini suum proprium et pretium deinde, ac mulcta ad quem pertinet*—“Ac agife man that agen frigean his agen and, &c.” Wilk. 137. The frian is contrasted with the lord of land in the *Liber Constitutionum*—*Si ordalium declinet, solvat capitale possessori, et terræ domino xx oras et habeat deinde ad ordalium*. The Saxon is, “Gif he that ordal forbuge gilde an gulde tham agenan frian and landrican xx oran, &c.” Wilk. 117.

their advantageous tenures, or to persons of free condition, as contrasted with those in a servile state.

It appears from Domesday-book that all the land of England was held immediately under the crown by a very few favourites and great men, and that they generally divided their respective portions into two parts; one granted out to their vassals and dependents, but the other, called the demesne, subdivided into two allotments, one held by the lord himself for the immediate supply of necessaries for his domestic establishment, and the other cultivated by persons of humble, if not base condition, for the same purpose.

The demesnes of a lord generally included a large portion of his territories, for, as money was scarce and most of the transactions of life carried on by way of barter, he was obliged to provide for the subsistence of his numerous retainers, and the necessary supply of his household, from the produce of his own land. And when he granted land to be held by feudal services, his tenants, in like manner, were obliged to have their smaller demesnes portioned out and cultivated for the subsistence of their families. Those who cultivated and lived upon the demesne lands of the lords, must therefore, at the time of the conquest,

have included a great portion of the inhabitants of England.

We find the word *man* used in the Anglo-Saxon laws in various significations; it is sometimes the generic description of the whole human race, at others of the individuals of particular classes, as a *folces man*, *cirican man*, *ceorlisc man*, or *cyrlic man*, &c. It is also made to denote a vassal, tenant, or dependent of a lord^a. Bishop Wilkins in many places translates it by the Latin word *servus*, but in so doing he seems not unfrequently to have mistaken its true signification^b.

The Latin word *homo* was also used in a similar variety of significations, and in order to understand its meaning it is necessary in all cases to attend to the connection in which it is placed. The word *liber* was sometimes used to express

^a *Si in regis villa aliquis hominem (man mannan) occiderit L solidos emendet. Ll. Æthelb. 5. Wilk. 2.*

Si quis aliquem (man mannan) in alterius area perjuram vocet, &c. Ll. Hloth. & E. 11. Wilk. 9.

Volo etiam ut quilibet homo (man) semper habeat viros (men) paratos in terra sua, ut conducant eos qui suum proprium quærere volunt, &c. Ll. Eadw. 7. Wilk. 50.

^b *Ne suscipias hominem (man) alterius viri (othres mannes man) absque venia ejus quem prius sequebatur, &c. Ll. Eadw. 10. Wilk. 50. Nearly similar is the 22d law of Æthelstan. Wilk. 60.*

the condition of the person to whom it was applied, but when connected with the word *homo* was generally descriptive of the nature of the tenure by which he held his possessions, and of which homage was the principal incident. Reserving for future discussion the nature of that tenure, we shall only observe here that the *liberi homines*, or free tenants holding by homage, do not appear to have enjoyed any privileges which the common ceorls or husbandmen were not equally entitled to.

In many of the Anglo-Saxon laws the word “freoman,” “frigman,” or “frigne man^a,” is opposed to “theowe,” a slave. In the 11th of the laws of Ina we have “theowne oththe frigne^b.” In the 5th article of the treaty between Ælfred and Guthrum, “ne theowe, ne freo^c.” In the laws of Æthelstan, “beo he swa theowe, swa freoh, swa hwether he sy^d.” In the canons of Edgar occur, “tham freon and tham theowan^e,” and in the 66th law of Cnute, “freet and theo-
“wat^f.” In the 3d law of Hlothare and Eadric,

^a In the laws of William the conqueror, written in Norman French, we have as the equivalent expression, “frans hum.” Wilk. 219, 221, 222.

^b Wilk. 27. ^c Ib. 47. ^d Ib. 61.

^e Ib. 87. ^f Ib. 143.

“mannes esne,” and “frigne man,” are mentioned^a, and in the 39th of Ælfred, “freown mannun” are opposed to “theowum mannun & esne ryhtum^b.” The great question is, who were the freemen here spoken of, and the natural conclusion seems to be that they must have been ceorls or cyrlisc men, who are opposed in other places, as the lowest description of freemen, to eorls, as the highest of the nobility^c. At the beginning of the *Judicia Civitatis Lundoniæ*, we find “ge eorlice, ge ceorlice^d,” and towards the end, after stating that there had been by the laws of the Angles, “wise men of the people worthy of honour, each according to his rank,” it is added, “eorl or ceorl, thegen and theoden^e.” The 4th law of Ælfred, whereby it was forbidden to plot against the king’s life, or to kill him, goes on, “So also we ordain for all persons, ge ceorle,

^a Wilk. 8.^b Ib. 44.^c Wilk. 65. C. S. 92.^d Wilk. 65.

^e Wilk. 70. Wilkins translates the word “theoden” by the Latin word “rusticus,” but that is evidently a mistake. See Lye’s Dict. *in voce*. It means a king or lord, may be derived from “theod,” a nation or people, and is equivalent to “theod cyninge,” the king or head of the nation. The construction of the sentence excludes the conjecture that it is here opposed to thanes for the purpose of describing the relation of master and servant of the highest rank.

“*ge eorle* ^a.” So in the *Liber Constitutionum*,
 “Justly also have we wites said, that by the pro-
 vidence of God a slave (*thrael*) may be worth
 a thane, a *ceorl* may be worth an *eorl*, a singer
 a priest, and a scribe a bishop ^b.”

The nature of the tenure by which freemen held their lands will be the subject of future consideration. I shall content myself in this chapter with stating their denominations, and pointing out such particulars only as distinguished them from the nobles and slaves, or the different classes of freemen from each other. For the convenient discussion of the subject it may be premised, that all the land of England may be considered as arranged in one or other of three divisions: 1st. Land granted out on service or rent; 2d. Land reserved for the demesnes of the lords; and 3d. Burghs, which were fortified places having peculiar privileges. All the freemen of the kingdom who were not of the rank of nobility were distributed among these divisions, and en-

^a *Si quis vitæ regis insidietur per se, vel per ultores mercede conductos, vel servos suos (his manna), vita privetur, et omnibus quæ possidet. Si seipsum culpa eximere voluerit, faciat hoc pro æstimatione capitis regii. Ita etiam ordinamus pro omnibus personis, tam colonis quam comitibus (ge ceorle ge eorle). Ll. Ælfr. 4. Wilk. 35.*

^b Wilk. 112.

joyed privileges, and were burdened with duties and services belonging to their respective situations. We shall proceed first to examine shortly the lines of distinction, which separated each class of freemen from the other, and then endeavour to ascertain their general rights as composing one great body.

THE words “ceorl^a,” or “ceorlisc, ceorlise, “ceorlic, ceorliscne, cyrlisc man,” occur frequently in the early laws of the Anglo-Saxons, but in the later ones they are more seldom met with. We may account for this from the gradual but constant introduction from the continent of novel distinctions and incidents in tenure, unknown to the first Saxon settlers. The laws of Ethelbirth, king of Kent, are the earliest which have been preserved to us; he reigned from A. D. 561 to A. D. 616, and they contain many provisions for the protection of ceorls in their persons, properties, and family comforts. In the *Northumbrensium presbyterorum leges*, the word “færbena” is used for a cyrlisc man^b, and

^a In the Saxon language the letter C was always pronounced as K, and “ceorl” as “keorl;” hence the word carl.

^b Wilk. 100, 101.

in another record we meet with “thane born, and
“ceorl born^a.”

The word “ceorl,” which appears to have been the usual designation of a husbandman among the Saxons, is nowhere to be found in Domesday-book, and it is now become difficult to point out the classes of freemen to whom it belonged. The laws of Ina mention ceorls as having common of pasture and inclosed lands, and in other respects being occupiers of land for the purposes of husbandry^b. And the 33d law of William the conqueror, after mentioning the cultivators of land for a lord, and naifs, says, “that no one ought to molest those, who
“cultivate the land, except for their rent when
“due, nor can the lord remove the cultivators of

^a *Sen. Cons. de Monticulis Walliæ.* Wilk. 125.

^b 42. *De rustici pascua.*—(Be ceorles gærstune). *Si rustici (ceorlas) communem habeant pascuam vel aliam divisam terram septo cingendam, et aliqui sepierint partem suam, aliqui non, et edant communes suas glandes, vel pascuam, abeant, tunc illi qui portam habent, et compensent aliis, qui partem suam septo cinxerunt, damnum illis illatum, et deprecentur eî cum pecore, uti justum, uti fas est. Si autem bos aliquis sit, qui sepe fregit et intrat ubique, et si eum nolit retinere ceu proprium, vel non possit,umat ipsum in agri sui divisione, et occidat eum, et dominus proprius accipiat carnem ejus, et perdat reliquum.* *Ll. Inæ.* 42. Wilk. 21. And other passages in these laws might be referred to; see Wilk. p. 24.

“ land so long as they can perform their proper
“ services ^a. ”

In the laws of William the conqueror the distinctions which prevailed among the different tenants or occupiers of land, may be traced in the payment of Peter-pence. Every free tenant, who possessed live-stock of the estimated value of thirty pence, was to pay one penny. The lord, by the payment of four-pence, discharged his bordars, bovers, and servants ; and burgesses, who held cattle worth half a mark, paid a penny. But in the Danelege, a free tenant having live stock valued at half a mark of silver, paid only a penny, and if a lord paid a penny, all those who resided upon his demesnes were discharged from any payment at all ^b. From this entry it appears

^a 33. *De colonis et glebæ ascriptitiis. Eos, qui colunt terram non debet quis molestare, præter quam de eorum debito censu. Nec licet a domino feodi amovere cultores de terra sua, quamdiu rectum servitium suum facere possint. Nativi, qui discedunt a terra sua, non debent cartam falsæ nativitatis quærere, ut non faciant suum rectum servitium, quod spectat ad terram suam. Nativum, qui discedit a terra unde est natus, et venit ad alteram, nullus retineat, nec eum, nec catalla ejus sed redire cogatur, ut faciat servitium suum tale, quod ad eum spectat ; si domini non faciunt alterius colonum venire ad terram suam, justitia id faciat.* Wilk. 225.

^b *Liber homo (franc home), qui habuerit averia campestria xxx denariis æstimanda, dabit denarium S. Petri pro iv de-*

that there were three classes of persons connected with the cultivation of the earth, lords, free tenants, and servants and dependents, who resided upon the demesnes of the lords. The free tenants, of course, must have had the rank and privileges of freemen; the servants and dependents will be noticed hereafter.

In the *Northumbrensiū presbyterorum leges*, it has been observed before^a, that the possessors of land were divided into three classes, the king's thanes and lords of land, the proprietors of land, and ceorls or cyrlisc men, and the members of every class were distinguished from each other by the magnitude of the fines imposed for certain offences. That these ceorls were husbandmen, who cultivated the soil, appears from the regulation of the fines to be paid for the detaining of tythes. A king's thane was to pay ten semi-marcs, an owner of land not of that dignity, six *nariis*, quos donaverit dominus, quieti erunt bordarii ejus, et ejus scabini, et ejus servientes (ses bordiers, et ses bovers, et ses serjanz), burgensis qui de propriis catallis habet id, quod dimidia marca æstimandum est, dare debet denarium S. Petri. Qui in Danelega est liber homo (franc home), et habet averia campestria, quæ dimidia marca in argento æstimauntur, debet dare denarium S. Petri. Et per denarium, quem donaverit dominus, erunt quieti ei, qui resident in suo dominio. *Ll. Gul. Con.* 18. *Wilk.* 222.

^a Ante, p. 268.

semi-marcs, and a ceorl only twelve ors^a, but the latter could be liable to the payment of tythes only from his occupation of the land, from which they were to arise. The laws respecting the Welsh, also alluded to before, shew that the bare occupation or farming of land did not give superior privileges, and that persons, described as *having* land, were the owners of it. By the laws of Ina, if a Welshman had a hyde of land, his were was fixed at 120 shillings, if he had but half a hyde at 80 shillings, but if he had none, at 60 shillings^b. In the *Judicia Civitatis Lundoniæ*, probably with reference to this law, but altering it in some respects, it is enacted, that if a Welshman *had* a portion of land and could pay the king's gafol, his were was to be 220 shillings. If he *had* not more than half a hyde, then his were was fixed at 80 shillings, and if he *had* no land and yet was free, it was 70 shillings^c. Taking the two laws together, we may infer that

^a *Ante*, p. 271, note ^a.

^b *Ll. Inæ*. 32. Wilk. 20.

^c *Ante*, p. 42, note ^b.—*Portionem terræ*, as Wilkins renders the words "hywise landes," but the word "hiwisce" signifies a family, and therefore the lands here mentioned, probably, were connected with the family of the possessor. Wilk. 71. Perhaps they were required to be for its subsistence. Bede. 5. 19. has "tyn hiwisca land," the land of ten families. See Lye's Sax. Dict. *in voce*. Hiwisce.

the portion of land here mentioned, was a hyde. By the 60th law of Ina a ceorl, who had hired a yoke, was to pay for it in fodder, but if he had not enough, he was to pay one half in fodder, the remainder in some other thing^a.

The cultivators of land, held under lords, were sometimes called “tunesmen^b,” and the word “landesmen” also occurs as applied to inferior landholders, but of some consideration, and having slaves under them^c. It is therefore manifest

^a *Colonus* (ceorl), *qui alterius jugum mercede conduxit si omnia ex pabulo reddere possit, videatur, det omnia. Si non habeat, reddat dimidiam partem ex pabulo* (fodre), *dimidiam alia re.* *Ll. Inæ.* 60. *Wilk.* 34.

^b *Ante*, p. 271, note ^b.

^c *Si quis de colono* (landesman) *dixerit quod pecuniam furatus sit, vel homicidium commiserit, et hoc dixerit pirata, et aliquis colonus* (and an landesman), *tunc non sit aliqua negatione dignus. Et si eorum servi* (heora menor) *nostras possessiones occiderint, tunc sit exlex* (utlage) *tam apud illos, quam apud nos, et non sit aliqua compensatione dignus, &c.* *Ll. Æthelr.* 8. *Wilk.* 105.

Si vestigium deprehendatur furtim ablatae pecudis e loco aliquo, tunc concredatur colonis investigatio illa (that mon spor landes mannum) *vel signis confirmetur, ut quis recte consequatur; conferat se deinde ad illum qui terram hanc possidet* (that land age) *et faciat disquisitionem illam, &c.* *Sen. Con. de Mont. Walliæ.* *Wilk.* 125. The latter part of this stipulation confirms the suspicion that a landesman was an owner, and not a mere occupier of land.

Non debent iter facere, neque Walli in Angliam, neque

that there existed a race of freemen recognized and protected by the laws, who were not the owners of any land themselves, but cultivated that of others. There were no freemen, however humble their situation, who might not by economy and industry become the proprietors of land, and even entitled to the privileges of nobility. Among the lowest of them in rank therefore, it may be presumed, there might be found occasionally men of considerable wealth and influence.

AMONG the ceorls may undoubtedly be classed those husbandmen who held lands at a fixed rent or gafol^a, payable in money^b or kind^c. By the 6th law of Ina fighting in the house of a gafol-payer or bure, was punished by a wite or penalty of thirty shillings, besides six shillings to be paid

Angli in Walliam, nisi constituti coloni (gesettan landmen) eos ad limites recipiant, et postea absque periculo reducant. Sen. Con. de Mont. 6. Wilk. 126.

^a *Gozelin et Wills fr̃ ej̃ teñ unam ṽ quæ ante eos reddeb̃ gablum, sed isti ñ reddider̃. D. 52.*

^b *Ibi 11 homines reddunt 1v sol' de locatione terræ. D. 260.*

In Turalzbi. Game cum matri et fr̃e h̃b̃ 1111 car̃ tr̃e ad gl̃d. Tr̃a ad 11 car̃. Idem ipse h̃t et locat eam. D. 331.

^c *Quisque villanus habens x̃ porcos dat̃ unum porcum de pasnagio. D. 180.*

to the bure^a, under which denomination the gafol-payer must necessarily have been included. In the treaty between Ælfred and Guthrum the ceorl who lived on gafol-land is expressly mentioned^b. Sometimes the Latin word *censarius* was applied to him, and persons of this description are noticed in Domesday-book^c, but not frequently, and so are *censores*^d. The relief of a tenant at a fixed *census* or rent, before the conquest, was one year's rent^e. The laws of Henry the first notice *firmarii* or farmers, who I take to be the *censarii* just mentioned, and shew that

^a *Si autem in tributarii domo vel coloni* (on gafol gildan huse oththe on gebures) *pugnet triginta solidos pœnæ loco* (to wite) *et colono* (gebure) *sex solidos.* *Ll. Inæ.* 6. Wilk. 16.

^b *Hoc est, si quis occidatur, nos omnes admittimus æque charum* (nobis) *Anglum et Dacum ad quatuor marcas fusilis auri, excepto colono, qui terram censualem possidet* (ceorle the on gafol lande sit); *et redemptiones eorum sint æque caræ, nimirum ducentorum solidorum.* *Fæd. Ælfr. & Guth.* 2. Wilk. 47.

^c D. 314. 2 D. 15. b.

^d D. 287, 302, 331. *Rad habet ibi 1 censor qui redd' x sol' et viii den T. R. E. val' x sol'.* D. 325. b.

^e *Eorum qui fundum suum tenent ad censum, (qui tenent leur terre a cense) sit rectum relevium, tantum quantum census annuus est.* *Ll. Gul. Con.* 40. Wilk. 225.

Richard dedit cuidam Anglico ad censu p x lib sed unoquoque anno deficiunt illi ad min x lib. 2 D. 38. b.

persons of this description, at the time when those laws were made, were not admitted in general to do homage to their lords, but were considered as filling a subordinate situation ^a.

That gafol land was inferior to land granted out on service is apparent from the 67th law of Ina, which provided that if a man held a virgate or more of land by payment of gafol, and had ploughed it, and his lord thought fit to exalt the tenure by taking service as well as gafol, the tenant was not bound to continue to hold it by such new tenure, unless the lord would sell him a house ^b.

UNDER the Saxon government a large proportion of the people lived, as has been observed

^a *Si inter aliquem et firmarium suum, qui non etiam sit homo suus, de his præsertim, quæ ad firmam pertinent controversia oriatur sive de taleis agatur, sive de suppletione in ipso manerio sit, de cætero sicut in cæteris. Si quis vero firmam in feudo teneat et homagium inde fecerit sive in eo manens sit, vel non sit, et eum diligit, satisfaciat domino suo in curia sua vel in curia domini de quo ipsum feodum est. Ll. Hen. 1. 56. Wilk. 256. See also, pp. 257, 258.*

^b *Si quis conduxerit virgatam terræ vel amplius ad commodum tributarium (gafole) et araverit eam. Si dominus ipsi velit terram erigere ad opus et ad tributum (to weorce & to gafole), non necesse est, ut accipiat eam si illi domum non vendiderit (syld), et perdat agrum istum. Wilk. 25.*

before, upon the demesnes of their lords, and were occupied in the labours of husbandry in order to supply them and their households with provisions and other necessities. Whether they were ranked among freemen it now becomes necessary to examine.

That, about the time of the conquest, there existed a numerous race of husbandmen distinguished by the Latin name of *villani*, cannot be disputed. Every page in Domesday-book might be cited to prove it, and the extent of the lords demesnes is frequently computed separately from the land held by villans, and both are always kept distinct from the arable land granted out to tenants.

The word *villanus* may have signified, in its original sense, the inhabitant of a vill, a villager, and seems to be so used occasionally in Domesday-book^a.

^a *Rex tenet in dñio Gomeselle. Herald (com) tenuit, &c. Hujus villæ villani ab omni re vicecom sunt quieti. D. 30.*

Alterius villæ hōes laborant in hac villa et reddt̃ xxxvii solid' et viii denar̃. D. 182. b.

De Helle et Hederham. In eadem villa emerunt fratres ecclesiæ totam fere terram Alfsii et plurimam acram a villanis pauperioribus ejusdem villæ. Hist. El. 3 Gale. 474.

Rex Willielmus senior concessit et confirmavit, de terris Walteri de Lacy ad ecclesiam sancti Petri, quam ipsemet construxit in Herford, quantum pertinet ad quatuor carucas, et de x villis, x villanos, unum villanum in Stoke in Herford-

But the Normans having the word “vilein” in use among them to signify “vile” or “base,” made it the legal denomination of this humble class of husbandmen, who, till then, had borne the name only as the inhabitants of the vill to which they belonged. I have not met with it in any authentic documents till about the time of the conquest, but it is found in the laws of Edward the confessor, William the conqueror, and Henry the first. Among the Saxons were many words descriptive of persons engaged in husbandry, as ceorls, cyrlisc men, geneats, tunesmen,

schire, unum de Staunton in Schropshire, unum in Stoke in eadem schira, unum in Webbeleya in Herfordshire, unum in Bricmariffrome in eadem schira, quinque autem villanos de quinque villis in Gloucestershire, unum in Gnyting, unum in Quenningtone, unum in Stratton, unum in Wyk, in Dontesborne, unum in Hamme. De illis vero x prædictis villis concessit duas partes decimæ ad eandem ecclesiam. 1 Mon. 115.

Among the possessions of the abbey of Worcester was Ribetforde, of which, in the register belonging to it, is an entry in these words :—*Simili modo villam quæ Ribbetford dicitur, cujus villani captatorias sepes piscium et alias venatorias instaurare debita lege debebant, operaque nostra ubicumque eis præcipiebatur exercebant, &c. 1 Mon. 129.*

Selden, in his preface to Eadmer, has preserved articles of inquiry for the composition of Domesday-book, by which it appears that the inquiry was conducted by the king's barons, upon the oaths of the sheriff of each county, and all the barons, and their French-born vassals, and of the hundredary, priest, steward, and *six villeins of every vill, &c.*

landsmen, &c. but the proper appellation for a villan has not been ascertained. Villans are contrasted in Domesday-book with freemen^a, and villan-land with free-land^b, and they are treated as a despicable race, the dregs of the people, and unfit, though not disqualified, to appear as witnesses against the respectable landholders of a county^c. In the 30th law of Henry the first they are, jointly with the *cocseti* and *pardingi*, denominated *hujusmodi viles vel inopes personæ*, declared to be disqualified to be reckoned among judges, excluded from bringing any civil suits in the county or hundred-courts, and referred, for the redress of injuries, to the courts of their own

^a *In dñio, &c. Int̃ franc̃ et vill' XXVIII car̃ et adhuc XI poss̃ fieri.* D. 130.

Ibi 1 hida. Ibi sunt VIII hōes int̃ francos et villōs cum IIII car̃. D. 252. b.

^b *Terra libera et villana.* D. 174.

^c *Ista terra calūniat Will's de Chernet dicens pertinere ad M de Cerdeford feudum Hugonis de Port p̃ hereditatem sui antecessoris, et de hoc suum testimonium adduxit de melioribus et antiq̃is hominibus totius comitat̃ et hundr̃ et Picot contraxit suum testimonium de villanis et vili plebe, et de prepositis, qui volunt defendere per sacramentum aut per Dei iudicium, quod ille, qui tenuit terram liberum hominem fuit, et potuit ire cum sua terra quo voluit, sed testes Will'i nolunt accipere legem, nisi regis E. usq̃ dum diffiniatur per regem.* D. 44. b.

lords^a. They were annexed to the land on which they lived, and could remove neither themselves nor families, but were conveyed and transferred from hand to hand with it^b. But the condition of villans, however abject, might still be free, and that it was so is evident from one of the passages just quoted from Domesday-book, for as freemen only could they tender their oaths in a court of justice, nor could their rank in life be affected by the nature of their tenure, for thanes or knights might hold villan-land, and upon the basest services, without being degraded by so doing. The inability of the villan to remove himself from the jurisdiction of his lord, also, did not necessarily lead to the conclusion that he was

^a *Villani vero, vel cocseti, vel pardingi, vel qui sunt hujusmodi viles, vel inopes personæ non sunt inter legum iudices numerandi, unde nec in hundredo vel comitatu pecuniam suam, vel dominorum suorum forisfaciunt, si justitiam sine iudicio dimittant, sed summonitis terrarum dominis inforcietur placitum termino competenti, si fuerint vel non fuerint antea summoniti cum secuti jus æstimatis.* Ll. Hen. 1. c. 30. Wilk. 248.

^b *Horum duorum man̄ æcclās, et p̄bros, et decimas, et duos villos ten̄ S. Maria de cormeliis in elemosina de rege.* D. 179. b.

In Ingeurda 1 vill', quem ten̄ Tocho de Wintretune, et hē addit̄ antecess̄ R. huic man̄. 2 D. 179. b.

W. comes—Rad' de Limesi ded' 11 piscar̄ in Waia cum uno vitto. D. 164. See the note ^a to p. 289.

of servile condition, for even thane-land might be held by thanes upon similar terms. And free-land, *terra libera*, might retain its appellation, and be contrasted with villan land, although it was held under most of the servile incidents of the latter.

We have seen that one of the principal marks of distinction among freemen was in the variation of the were, or sum of money to be paid to the relations of any person killed, as a compensation for his loss, or in certain cases as a penalty for the commission of a crime. For the purpose of fixing this were according to the rank and condition in life of the offender, in the one case, or of the deceased in the other, all the freemen of England below eorls, were divided into three classes, the twelfhinds, sixhinds, and twihinds or ceorls, and the question is, whether in this last description villans were included. The 8th law of William the conqueror, after regulating the manbote to be paid in certain cases, mentions the were of a thane as being 20 pounds, and of a villan only 100 shillings, both in the *Merchenelega* and *West Sexenelega*^a; whence it

^a *Si quis alium occiderit, et sit reus confitens, et emendare negaverit, det de suo manbote domino pro libero homine x solidos, et pro servo (pur le serf) xx solidos. Wera thani*

may be argued that a villan was inferior to a twihind, whose were was 200 shillings. But this law is so contradictory to all the other legislative provisions upon the subject, as to authorize a suspicion that there must have been a mistake made in transcribing it. In no other place is 100 shillings mentioned as the were of any person whatever, and, by the 76th law of Henry the first, the were of a twelfhind, described as fully noble, and a thane, is expressly said to be 120 shillings, and to make not 20 pounds, as in the law of William, but 25 pounds^a. The 70th law of Henry the first declares that, by the custom of West Saxony, the head of the kingdom and the laws, the were of a twihind, *that is a villan*, is four pounds; of a twelfhind, that is a thane, 25 pounds^b; and in other parts of the laws villans

est xx libræ in Merchenelega, et in West Sexenelega. Et wera villani (del vilain) c solidi in Merchenelega, atque etiam in West Sexenelega. Wilk. 221.

^a *Servi, alii casu, alii genitura; liberi, alii thwyhindi, alii sixhindi, alii thwelfhindi. Twihindus homo dicitur, cujus wera est cc sol' qui faciunt quatuor libras. Twelfhindus est homo plene nobilis, et thainus, cujus wera est duodecies c sol' qui faciunt libr̄ xxv, cujus halfang sunt cxx sol', qui faciunt hodie sol' quinquaginta. Ll. H. 1. c. 76. Wilk. 269.*

^b *Consuetudo Westsæx. In Westsexa, quæ caput regni est, et legum, twyhindi, i. villani, wera est iv lib̄, twelfhindi, i. thaini, xxv libr̄. Ll. Hen. 1. 70. Wilk. 265.*

are ranked with ceorls and twihinds. Moreover the weres of a cyrlisc man and a villan are expressly mentioned, and required to be regulated in the same manner as that of a twelfhind^a. The were of a villan, also, as the lowest freeman, is contrasted with that of a thane^b, and in Kent with that of a baron^c.

Weres for homicide, we may presume, were paid only upon the deaths of freemen, for slaves could legally possess no property, nor had they any relations to receive them. Consequently villans, who are expressly mentioned to have been protected by weres, must have been of free condition. Another proof may be adduced from their being liable to the payment of reliefs, which never were called for from the servile class. When, therefore, provision was made in the laws of William the conqueror for the exaction of a relief from every villan of his best beast, whether a horse, an ox, or a cow^d, we must conclude that

^a *Eodem modo per omnia de cyrlisci vel villani wera fieri debet secundum modum suum, sicut de duodecies centeno diximus. Ll. Hen. 1. 76. Wilk. 270.*

^b *Ante, p. 221, note c.*

^c *Ibid, note b.*

^d *De relevio villani (a vilain). Melius animal quod habuerit id (sive equus sit, sive bos, sive vacca) donabit domino*

at the time of compiling those laws, namely, about four years after the conquest, a villan was a freeman. Possibly before the conquest the reliefs of villans had been left uncertain, depending upon the will of their lords, and this law might have been introduced to put an end to the vexation. A difference also is made between a *censarius* or gafol-payer, and a villan, the relief of the former being a year's rent^a, of the latter his best beast. It may be observed also, that this law of William is couched in terms which seem to imply that the relief of a gafol-payer had been fixed before the conquest, but that the relief of a villan was then imposed for the first time. In this respect the last clause of the law is deserving of particular attention, for, by requiring that *hereafter* all villans shall be in frank-pledge, it may be inferred that before that time they were not so. The consequence of their being in frank-pledge, or in free borh, was, that they were introduced to the privileges of freemen, and ranked among them. We are not, however, certain that, notwithstanding the prospective terms in which the law is framed, villans

suo per relevio, et postea sint omnes villani (tous les vilains) *in franco plegio.* Ll. Gul. Con. 29. Wilk. 224.

^a *Ante*, p. 287, note ^e.

had not been in frank-pledge before. And in Domesday-book is an entry, which shews that villans had been accustomed before the conquest to pay reliefs, for a villan of the vill of Chingestune was in the custody of Humphry the chamberlain, as he had been ever since the time of Edward the confessor, for a crime committed, and before that, upon the death of his father, the chamberlain had exacted as a relief thirty shillings^a. This was certainly a large sum for a villan to raise.

Manbote, in the Saxon laws, was the fine paid to a lord by any person who killed his vassal or retainer, and it is stated, in the 12th law of Edward the confessor, to have been payable in the Danelege upon the violent death of either free tenants, socmen, or villans. For the loss of a free tenant, the fine to the lord was three marcs, but for that of a socman or villan only twelve ors^b. Here, from the manbote of the two latter being estimated at the same price, it may be argued that they were of the same condition, and, as a socman was a freeman, that the villan must be so too, but it may also be accounted for

^a *De ipso etiam accepit xx sol' in relevamentum cum pater ejus fuit mortuus.* See ante, p. 28, note ^r.

^b Manbote in Danelege, *de villano et sokeman XII oras, de liberis autem hominibus III marcas.* Wilk. 199.

from the interest which the lord had in them being of equal value, though their conditions in life might be different; and such appears to have been the principle on which the calculation of manbote in the *Merchenelega* and *West Sexenelega* was made, for in the laws of William the conqueror the loss of a free tenant was estimated at only ten shillings, but of a serf at double that sum^a.

That every person bearing the name of villan was not necessarily of servile condition, or, if he was, that he might hold land as a ceorl or free-man, appears from a *juga* of arable land in Romney Marsh being held (in the time of Edward the confessor) in moieties, one half by two socmen, and one half by two villans^b; from a villan holding land at a money-rent^c; and from the manor of Wellesdone being held to farm by

^a *Si quis alium occiderit et sit reus confitens et emendare negaverit, det de suo manbote domino (manbote al seignor) pro libero homine x solidos, et pro servo xx solidos.* Wilk. 221.

^b *Isdem Hugo ten in Maresc de Romenel i jugum. Tra est. Medietatem hujus tra tenuer ii sochi et ii villi aliam. Ibi sunt modo iiii villi hntes i car. Hec terra valuit et val' xii solid'. D. 13.*

^c *Ibidem ht isdem Wills de rege unum villanum cum dim v tra et una acra tra et dimid' qs tenuit Rainald' pistor de Willo (comite) Furn comitis fuit ibi. Val' xvi denar. Wills redd' x solid' p annu. D. 52. b.*

villans, rendering rent in kind, at the time when Domesday-book was compiled ^a. The ecclesiastics who held the manor under the bishop of London and let it out to villans, had reserved it in the time of Edward the confessor as part of their demesnes, and appropriated it to provide them with victuals, but had afterwards let it out to farm, and reserved no demesnes at all.

That persons of servile condition were sometimes released from bondage by their masters cannot be doubted, but if villans ranked among the free there could be no occasion for their enfranchisement. They might indeed go through certain ceremonies, not to exalt their condition in life in this respect, but to relieve them from inconveniences, and the performance of burdensome and degrading services, and we know that they might purchase from their lords some of the smaller forfeitures which were incurred by the commission of crimes ^b.

^a *Wellesdone tenent canonici Sⁱ Pauli p̄ xv hid' se defendebat semper. Terra est xv car̄. Ibi villi viii car̄ et vii poss' fieri. Ibi xxv villi et v bord'. Silva, &c. D. 127. b.*

Hoc man̄ tenent villi ad firmam canonicorum. In dñco nil habent. Hoc maner̄ fuit de dñco victu T.R.E. D. 127. b.
See too, Fulham, D. 121.

^b *Quidam villani qui sunt ejusmodi leuerwitam et blod-witam et hujusmodi minora forisfacta emerunt a dominis suis vel quomodo meruerunt de suis et in suos quorum fletgefoth vel overseunessa est xxx den̄. Cothseti quindecim den̄, servi*

Another powerful argument in favour of the supposition that villans were ranked among freemen, arises from the consideration that, unless this had been the case, the bulk of the population of England must have been found in the servile class. We cannot imagine that the farmers, who held at the payment of rent, either in money or kind, could be so very numerous as to furnish victuals for the armies which were collected, provide members for all the tythings, and crowd the public assemblies which were held for judicial and other purposes. But upon the demesne lands of almost every lord villans might be found, and if they were admitted to bear the name, and partake of the privileges of freemen, and rank with ceorls or twihinds, the difficulty vanishes. A distinction may be traced between villans and other cultivators of the demesnes, whose claim to freedom we shall now proceed to examine, and this may have arisen from the former having a greater interest than the latter in their houses, and the small portions of land they were permitted to enjoy.

VI *deñ.* *Ll. Hen.* 1. 81. *Wilk.* 273. These smaller forfeitures had been declared, in a former law, to belong to the lord.

Si quis blodwytam, fihwytam, legerwytam et hujusmodi forisfaciat, et inde veniat sine dividiatione vel calumpnia placitum domini sui est. Ll. Hen. 1. c. 23. *Wilk.* 246.

UPON the demesnes of lords were *bordarii*, *cotarii*, *coscets* or *cozets*, *cosces*, &c. dependents, who seem to have been in rank inferior to villans, and to have had little claim to be admitted into the class of freemen ; but as in Domesday-book^a they are almost uniformly distinguished by a separate enumeration, and placed between the villans and slaves, I have considered them as forming a sort of connecting link between the free and the servile. I am the more inclined to place them here from the distinction made in the 8th law of Henry the first, in which the superior classes of freemen are privileged by being ranged in tythings, but the inferior ones, who worked for hire, are required to have each separately two pledges^b. Of this latter description we may presume the *mercenarius*, mentioned in little Domesday-book to have

^a See the 18th law of William the conqueror, quoted before at p. 282, note ^b.

^b *Communis quippe commodi provida dispensatione statutum est, ut a duodecimo ætatis suæ anno in hundredo sit, et decima vel plegio liberali quisquis were vel wite, vel jure liberi dignus curat æstimari; conductitii vel solidarii, vel stipendiarii duorum plegio teneantur. Ll. Hen. 1. 8. Wilk. 241.*

De fugitivis vero, conductitiis, et residentibus, servis vel liberis, secundum legem perquisitis institutum prima vice furatos reducendos et signandos esse. Ll. Hen. 1. 59. Wilk. 259.

been^a, and also the *rustici*^b, *porcarii*^c, *bovarii*^d, *vaccarii*^e, &c. who worked upon the lord's demesne, or looked after its stock or produce, and are found interspersed in many parts of Doomsday-book.

Of these probably the *bovarii* were the most numerous, including all those who had the management of cattle. They were called in French "bovers," and thence, by an easy transition, the English word "boors" or "bures" was formed. It is extremely probable that many of the bures were numbered among the slaves^f, but there is

^a *Huic manerio pertinent XI sochem, et I pbr, et I porcarius, et I mercenarius.* Lit. D. 26. b.

^b *Ibi III cot, et IIII servi, et II rustici.* D. 139.

Hanc hnt ibi IIII rustici. D. 74.

Ricard de Tonebrige ten de hoc man unam virgatam cum silva, unde abstulit rusticum, qui ibi manebat. D. 30.

^c *Et ibi sunt II rustici porcarii.* D. 175.

^d *Ibi II hidæ geld'. Trā ē II car. Una ē in dñio, et II bovar, et IIII villi hnt aliam cum III bord'.* D. 268. b.

Ibi ē I car cum II bovarios. D. 181.

^e *Et I porcarius, et I vacarius.* D. 180.

^f *Ibi II servi, et VI bovarii.* D. 172.

Ibi VI servi, et V bovarii, et un faber. D. 183. b.

The English word "neighbour" is derived from "neah," nigh, and "gebura," boor. See Wilk. 58, 81.

no doubt that some of them were free^a. We recognize them among the tenants paying gafol^b, villans^c, bordars^d, and freedmen^e, but they might also have no connection with their lord but as his hired servants. They are found chiefly in the counties adjoining to Wales; viz. those of Worcester, Hereford, Salop and Chester.

Bordarii are frequently mentioned in Domesday-book, and sometimes called *bordmanni*^f, but there are many manors in which they are omitted. The appellation may have been derived from the Saxon word *bord*, signifying a house or cottage^g, or it may have taken its rise from another signification of the same word, viz. a

^a *Leine.*—*Ibi* III servi, et un lib bovarius, &c. D. 183.

Ibi I servus, et III bovarii liberi. D. 183. b. And so in other instances.

^b *Ante*, p. 286.

^c — II villos, et v buros cum v car et dim. D. 182. b.

^d *In dñio sunt* III car, et un vills et xxx bord', et xviii burs, et II servi cum xiii car. D. 57. b.

^e *Post*, p. 319.

^f *In dominio est una carucata, et xxv villani, et xxxiii bordmanni cum iv carucatis.* *Spelm. Gloss.*

^g *Quinque videlicet mansas cum xv carucis terræ, cum xviii servis, et xvi villani, et x bordis cum lx acras prati.*

¹ *Mon.* 37.

Du Cange, *Borda*, cites a foreign charter made in 1257—

board or table, in which sense it is still retained; "to board in a house" means to be fed in it, and "to board and lodge," "to be at bed and board," are common expressions. Two centuries ago, "to table" was used synonymously with "to board." The name of "bordars," or "boarders," might be applied to this description of persons, because they had originally no permanent interest in the soil on which they lived beyond the lord's permission to place their tables and reside there, and from this humble origin their miserable habitations might acquire the name of bords.

A passage in Bracton suggests another derivation for the word *bordarii*, for he says, it was usual for lords to appropriate certain parts of their demesnes for the supply of their tables, and that they were denominated "bord lands." It may not be unreasonable to conjecture that those who cultivated them were called bordars, and numerous entries in Domesday-book shew that the procuring from the demesne of the lord victuals for the supply of his household, was a principal object of attention.

Asseruit se habere—duas masuras et unam bordam contiguas. Si quis burgensis alicui vicino suo—vel domos suas, vel bordas, vel molendinos combusserit, &c. Du Cange, citing Fori Morlanenses.

Without entering here into a minute inquiry as to the nature of the tenure^a by which they held their habitations, and the trifling portions of land allotted to them, we shall make a few observations connected with it, in order to give a more correct idea of their rank and situation as members of the community at large.

Bordars are in Domesday-book usually enumerated in connection with villans, and their lands included in the same amount, but from their being almost always placed after villans when they are classed together, it may be presumed that they were inferior. I am aware, however, that the entries are so irregular that much reliance cannot be placed upon this observation. Bordars were also classed with cotters, cotmen and coscezes, and in general preceded them. That their usual residence was upon the demesne may be gathered from the 18th law of William the conqueror, which has been mentioned before, for in one part of England the payment of Peterpence by the lord exonerated his bordars, bovers,

^a “Tenure par bordage, si est comme aucune borde est baillie a aucun pour faire les vils services son seignor: ne poet l’omme cel fient ne vendre ne engager, ne donner, et de c’en nest pas homage fet.” *Vetus Consuetudo Normanniæ MS.* part 1, sect. 3. cap. 15, cited Du Cange, *Bordagium*.

and servants, and in the Danelege a similar payment discharged all those who were resident on the demesne. The bordars are described as being employed in the labours of husbandry, and as connected with ploughs^a and oxen^b. Their habitations were sometimes denominated *masuræ*^c. They were frequently the holders of small portions of land^d, and some are stated to have paid an annual rent in money^e, while others

^a *Terra x bou. Ibi III bord', et 1 caruca.* D. 207. b.

^b *In Cateuuorde 1 hid' ad gld, et 1 bord cum 1 boue.* D. 205. b.

Ibi habet Siward (pbr) 1 vill', et 1 bord' cum 1 boue. T. R. E. val' v sol' et modo II sol'. D. 371.

Ibi II bord' cū II bob arantes. D. 340. And see D. 264. b.

Ibi II villi, et 1 bord', et II bou arantes. D. 22.

^c *Bovecome.—Hujus m æcclām cum una v trā teñ Monachi de Lire. De hac v trā teñ Hunfrid' tant ubi VIII hōes redd' v sol', et Wills F. Azor II acs et diñ ubi hñt IIII dom. Hi teñ ubique voluntate pbri. Ad hanc æcclām adjacent xx masuræ bordariorum, et reddt XIII sol'.* D. 52.

^d *Ibi 1 vill's de 1 virg, et VIII bord', quisq de diñ virg, et IV cot de XIX ac.* D. 130.

— *VII bord' quisq de v ac, et 1 bord' de III ac.* Ib.

Ibi habet Anchetellus IIII bordarios, qui tenent totam illam terram, et hñt ibi 1 carr et 1 agrū pti, et reddit x sol' et quando A. recepit tantundem. Ex. D. 424. b. This land gelded for half a virgate, and one plough might cultivate it.

^e *Supra, note c.*

were said to be *manentes*, without any land at all ^a.

“COTTERS,” or “cotmen,” in Latin named *cotarii*^b, *coteri*^c, or *cotmanni*^d, were probably so

^a *Et II milites II hid' et diṁ, et sub eis VI bord' manentes, III bord' de III ac. D. 130.*

Stanwelle.—Ibi I vill' de I hid', et VIII villi quisq̄ diṁ hid', et X villi quisq̄ I virg, et VIII vill' quisq̄ diṁ virg, et IV bord' de XXVIII ac, et II cot, et VIII servi, et II milit II hid' et diṁ et sub eis VI bord' manentes. D. 130.

^b 1 Mon. 626. In a description of the county of Meath, written by Sir Henry Piers in 1682, in which the barons of the county, who were not lords, are noticed, he mentions “the baron of Rathconrah (Owen); the family now reduced “to one poor brogue-maker, the chief, and a few mean “cottiers.”

In Domesday-book Harrow in Middlesex is called *Herges*, and there were two *cotarii* upon its very extensive demesne. Mr. Lysons remarks there are still in this district persons called cotelanders, who hold each a small parcel of land, five acres or thereabouts, and these he takes to be the same with the ancient *cotarii*. 2 London. 361.

In the statute called *Extenta manerii. Inquirendum est de custumariis, &c. Item inquirendum est de coterellis quæ cota gia, et curtilagia tenent, et per quæ servitia, &c.*

^c *In Tateshalle.—Hoc man habebat rex. Nunc habet Ilbertus, ibi IIII car, et LX burgenses minutos, et XVI coteros, et XVI vill', et VIII bord' hñtes XVIII car. D. 316. b.*

^d *In dñio sunt II car, et II vill', et VIII bord', et III cotmanni cum II car, et tcia posset esse ibi. D. 177. In Worcestershire occur cotmanni, always on the demesnes, and*

called from the cotes or huts in which they dwelt. In this sense the word “cot,” “cota,” or “cote,” was used by the Anglo-Saxons; an instance occurs in the 74th of the laws of Cnute which alludes to a thief bringing stolen goods into his cot^a.

Persons of this description are enumerated in many manors in Domesday-book, but uniformly, almost, in conjunction with villans and bordars, to both of whom, from their being generally mentioned after them, it may be concluded they were inferior. Their proper station appears to have been not in that portion of the demesne reserved to the lord himself, but on that set apart for cultivation by villans. In some counties they were pretty numerous, but not so much so as either villans or bordars. In one manor are reckoned nine wives of cotters^b.

The entries in which villans and cotters^c, or connected with villeins and bordars, but mentioned after them. D. 177. b.

^a *Et si quis rem furto ablatam domum in casam suam adferat* (to his cotan bringe), &c. Wilk. 145.

^b *In dominio erant v car̄, et xvi inter servos et ancill̄, et xx villi cum viii car̄, et ix feminae cotar.* D. 260. b.

^c *Ibi vi villi, et vi cot̄ habent iiii car̄, et v pot̄ fieri.* D. 200.

In dñio potuit fieri i car̄, et unus villanus cum v cot̄ hñt i car̄. Pratum iv bob. Nemo ad sepes, et ad focum. Valet xl sol̄. D. 202.

villans and bordars and cotters ^a, are mentioned, generally connect them together, and specify the quantity of land held by all in one gross sum, but cotters are sometimes noticed to be resident on manors in which no villans are mentioned ^b, and cotters and slaves might be classed together without villans or bordars ^c. In one manor were eight villans, holding each half a virgate, and four bordars, each holding five acres, and, distinct from them, are mentioned six cotters ^d. This is the only instance in which I have found them honoured with separate notice, and in many entries they are not stated to have possessed any land, or to be liable to the performance of any duties. But though there are no traces of cotters being holders of even the minutest portions of land, we discover in Ossulston hundred three making annual payments to the king, and two others residing at Holborn, who paid twenty-

^a *Ibi XVII vill' cum VIII bord', et X cot hñtes VIII car, p̄tu XII car.* D. 198. b.

^b *Trā est II car. Has hñt ibi XVIII cotar, et IIII molini st ibi redd' XXVII sol', et IIII ac p̄ti, et X ac pasturæ.* D. 66.

Terra est I car, et ibi est in dñio cum III cotar, et XVI ac p̄ti. D. 12.

^c *Ibi XVII cot, et II servi.* D. 192.

^d *Ibi VIII villi quisque diñ virg, et IV bord' quisque V acs. Ibi VI cot.* D. 192.

pence each to the sheriff of the county every year ^a.

THE word “coscez,” which is also found, but not frequently, in Domesday-book, is evidently compounded of the Saxon words “cot,” and “sata,” signifying a cottager, or inhabitant of a cot or cottage. It might therefore be concluded that *cottarii* and coscez must be synonymous, but that seems not to have been the case, for there are entries in which the numbers of each upon the demesnes of a manor are reckoned separately ^b. Coscez, in every other respect, seem to have been in the same situation as cotters, and like

^a *In Osulvestane hundret, &c.—In eod' hund' h̄t rex xxx cot̄, qui reddunt p̄ annū xiiii sol', et x den̄, et i obolum.* D. 127.

Ad Holeburne habet rex ii cot̄ q̄ui reddunt per annum xx den. vicecomiti regis. Hos cot̄ custodabat semper vicecomes de Middelsexe. Ibid.

^b *Ibi ix villi et xiii coscez et xviii cotar̄ cum vi car̄.* D. 67, and other entries in the same page. So D. 68. b.

De ea sunt in dñio iii hidæ, et ibi iii car̄, et iii servi, et vii villi, et ix coscez cum v car̄, et un tainus h̄t i hidam, et ibi i car̄. D. 78.

De hac trā sunt in dñio ii hidæ et dim̄, et ibi ii car̄, et v servi. Ibi vii villi et iii coscez, cum iii car̄. D. 67.

— *et ii servi, et vi coscez, et i cotar̄ cum dim̄ car̄.* D. 72. b.

them are found principally connected with pasture lands upon the demesnes of manors, with villans or bordars^a, and jointly with them holding small portions of land, but never stated to have possessed any by themselves. Out of the precincts of the burg of Malmsbury the abbot had nine coscezes who gelded with the burgesses^b. In the 30th law of Henry the first, quoted before^c, coscets are connected with villans, and denominated, with them, *viles vel inopes personæ*, but the rank of this description of people must have been much inferior to villans, to whom perhaps they stood in the relation of servants, for, by the 81st law of Henry the first, the fletgefeth or overscunessa, paid by a villan who had certain privileges, was thirty-pence, of a coscet fifteen-pence, and of a slave sixpence, or, as some manuscripts have it, five-pence^d. This law also evinces that coscets were elevated above slaves. But in Domesday-

^a *Rainald tenet de Milo (Crispin) Haseberie Levetot tenuit. T.R.E. et geldb̄ pro v hid'. Trā est v car̄. De ea est in dñio i hida, et ibi ii car̄, et ii servi, et v villi, et xiii coscezes, et ii cotar̄ cum iii car̄. Ibi, &c. D. 66.*

Ibi iiii bord' et vii coscezes hñt dimid' car̄. D. 71.

—— *x coscezes, et ii bord' cum i car̄. D. 74.*

^b *Malmesberie.—Abb Malmesberie habet iiii mas̄ et dimid', et foris burḡ ix coscezes, qui geldant cum burgensibus. D. 64.*

^c *Ante, p. 292, note ^a.*

^d *Ante, p. 299, note ^b.*

book a lord is said to have a coscet and half an acre of land, intimating that he had a similar property in both ^a.

“Cozets,” probably, were the same with coscets, but certainly distinguished from villans and bordars ^b, with whom, however, they are frequently united, and in conjunction with whom they are generally stated to have certain numbers of ploughs ^c. In one place twenty-eight villans, seven bordars, and forty-three cozets, are stated to possess seventeen ploughs ^d.

^a *Ibi h̄t 1 coscet et dimid' acm̄ p̄ti.* D. 74. Coscez seem to be generally connected with pasture or meadow. Ibid.

^b *Ibi est una car̄, et XII villi, et VII bord', et III servi cum III car̄, æccla h̄t dimid' hidam, et p̄br̄ unam car̄ cum uno cozet.* D. 260. b.

^c *Rex tenet Aldeborne.—In dñio sunt XVIII hidæ, et ibi X car̄, et XXV servi, et XIII colib̄ti. Ibi LXXIII villi, et XXXVIII cozets cum XXVI car̄.* D. 65.

In dñio sunt X car̄, et XXVIII inter servos et ancill', et LXVII villi, et II fabri, et V bord', et III cozet. Int̄ om̄s h̄nt XXIII car̄. D. 260. b.

In dñio sunt II car̄, et VI servi, et X colib̄ti. Ibi XII villi, et VI bord', et XIII cozets cum XVII car̄. D. 65.

In dñio sunt II, et VI servi. Ibi VII villi, et II bord', et XI cozets cum III car̄. D. 64. b.

In dñio est una car̄, et IIII villi integri, et VI dimidiū, et p̄br̄, et un̄ cozet cum III car̄. Ibi 1 servus. Ibi 1 miles ten̄ 1 hidam, et h̄t 1 car̄, et V vill'. D. 252.

^d *Ibi XXVIII villi, et VII bord', et XLIII cozets h̄ntes XVII car̄.* D. 65.

PERSONS of servile condition might be released from bondage by their lords, and when thus manumitted, were known by the name of “freoh-
“leta,” or in Latin *coliberti*, but sometimes they were denominated “freoh” simply, or free. The word *coliberti* was borrowed from the civil law, in which it was used as the designation of persons who had been made free *by their masters*, but whether it was so restricted among the Saxons, or applied generally to all persons made free, either by operation of law or the misconduct or default of their masters, or their voluntary acts, it might be difficult now to ascertain. Among the Germans freedmen filled a middle space, for they were not altogether free, nor were they exactly in the situation of slaves, to whom, however, they bore the greater affinity. Like them they might be bought and sold at the will of their masters, and Du Cange quotes charters made on the Continent, by which freedmen themselves were made free.

Tacitus remarks that, among the ancient Germans, the emancipation of slaves did not materially alter their condition in life. And a marked distinction between freemen released from slavery, and those who are so by descent through a long race of ancestors, still exists in some parts of Germany, particularly in the country whence the Anglo-

Saxons originally came ^a. In England, however, slaves by enfranchisement attained the rank of freemen, but from their being generally mentioned in Domesday-book in connection with slaves, a suspicion is induced that the appellation was appropriated to persons who had been, not villans, or *ascriptitii glebæ* merely, but slaves in the strictest sense of the word.

Adverting to the entries copied in the notes below, the reader will perceive that in some cases freedmen are enumerated together with villans, under one general head ^b, but that in others the two divisions of the demesnes are carefully kept distinct, and when that is done the villans and bordars are almost always ranged together, under the land *in dominio*, and then, separated by the word *ibi*, come the slaves and freedmen, &c. by themselves ^c. Persons who had been slaves, after

^a *Heineccii Elem. Juris Germ. T. 6, p. 27.*

^b *Ibi q̄tr xx et vi villi, et l bord', et x colib̄ti h̄ntes i car̄.* D. 68.

In dñio sunt iiii car̄ et v villi, et xii bord', et xxv colib̄ti, et x servi cum x car̄. D. 44.

In dñio sunt ii car̄ et lxii villi, et xxxvi bord', et iii colib̄ti, et vi servi cum xxxiiii car̄. D. 39.

^c *In dñio sunt viii car̄ et viii servi. Ibi xxxvii villi, et lxxviii bord', et x colib̄ti h̄ntes xxi car̄.* D. 64.

Westberie.—Eddid' regina tenuit, et geldavit pro xl hid'.

their manumission are found uniformly upon the demesnes, probably those which they had worked upon before; and therefore the bare act of manumission did not disengage them from all connection with the lord's demesnes, or even entitle them to be placed among villans and bordars. They seem to have been compulsorily attached to the same spot, and, as far as can now be traced, to have been obliged to associate with the same persons, and perform the same labours as in their originally servile state.

I do not remember to have seen a charter or any instrument of manumission, made before the conquest, in which the person enfranchised is described as a villan, bordar, or cotter; some-

Trā est XLVII car̄. In dñio s̄t XVII hidæ, et ibi VII car̄ et XXVIII servi, et XVI colib̄ti. Ibi XXXVIII villi, et XXIII bord', et IX mellitarii. D. 65.

Terra regis. Wiltescire, Melchesham.—In dñio s̄t XXXIIII hidæ, et ibi XIX car̄, et XXXV servi, et XXXI colib̄ti. Ibi C vill' VIII minus, et LXVI bord' hñtes XXXIX car̄. D. 65.

De hac terra XVI hidæ sunt in dñio, et ibi IIII car̄, et VI servi, et XXXVIII colib̄ti. Ibi XIIII villi, et XVII bord' cum XIX car̄. D. 66. b.

De ea sunt in dñio II hid', et ibi I car̄, et III servi, et IIII villi, et II bord', et II colib̄ti cum II car̄. D. 71.—This was Terra de Humfredi de Insula.

Terra est XVII car̄. In dñio est una, et XX villi, et XVIII bord' cum XVI car̄, et XXIIII colib̄ti, et III servi, et molin, &c. D. 41.

times he is said to be residing (*manentem*) in a certain vill, sometimes he is designated as a man, or a theown, i. e. a slave; and Doomsday-book mentions twelve *servi*, whom their lord had made free^a. If the word *coliberti* was confined to persons who had been released from a state of servitude, strictly so called, the laws by which manumission was regulated, must also be understood to relate to slaves only, and villans and bordars could no more be the object of those laws than the *coliberti* of Doomsday-book could include them. If villans and bordars were always ranked among freemen, and no manumission was necessary to invest them with their privileges, we may account satisfactorily for the freedmen being almost uniformly enumerated with the slaves, for notwithstanding the acquisition of personal freedom, they might still remain annexed to the soil, and depend for subsistence and protection upon their former masters. The severity of the laws also, with respect to persons wandering abroad without the protection of a lord, even if they had power to remove themselves, might induce them to remain within the district of, and continue dependent upon, their original masters.

^a *Terra Willi Leuric.—Ibi erant XII servi quos Willi liberos fecit.* D. 167. b.

Besides, they might continue voluntarily to perform servile labours on the lord's immediate demesne, in hopes to be advanced as vacancies occurred, to the villan-land.

The power of manumitting slaves conditionally, as well as absolutely, prevailed in England, as it also did upon the Continent, and may account, in some degree, for freedmen being generally classed with slaves in Domesday-book. So early as the reign of Wihtred, king of Kent, who died in the year of our Lord 725, a law was made, by which if any one at the altar gave freedom to his *man*, he became free among the people, and he who gave him freedom might take his inheritance, his wergeld, and his mund, wherever he resided, though it should be out of the district or manor to which he originally belonged^a. As a freedman, then, his connection with, and dependence upon his former lord, was to exist in full force, his person was free as to every body else, and he was entitled to the privileges attached to his being so, but whatever property he was allowed to possess belonged to his lord, and might be resumed at his pleasure; the lord

^a *Si quis mancipium ad altare manumiserit, liber est apud plebem; manumissor possideat hæreditatem ipsius (his erfe), et æstimationem capitis (werfeld), et pacem talis mancipii, ubicunque fuerit extra fines.* Wilk. 11.

too had a right to his wergeld, and not, as in case of persons born free, his relations. The humane purpose of this law seems to have been to encourage the manumission of slaves, by securing to the lords afterwards, every benefit they could have derived from a continuation of servile labours, or from forfeitures.

The will of Wynflæda, preserved by Hicke, affords a strong proof that slaves might be enfranchised conditionally, as well as absolutely, for she directed that Wulfare should be freed and follow whom he liked best, but Wulflæda was freed on condition that she followed Æthelflæda and Eadgifa, her daughters.

In the reign of Ina was enacted a law, which shews that slaves enfranchised might have the privileges of a were as other freemen. If a Welsh slave killed an Englishman, his master was to pay sixty shillings to his lord and his relations for his life. But if the master did not chuse to pay it, the lord had power to make the slave free, and then his relations might pay his were, if he had any of free condition, and in pledge for him^a.

^a *Si servus (theowe) Wallus Anglum occiderit, tunc debet ille cujus est, restituere ipsum domino et cognatis, vel LX solidos solvere pro ejus vita. Si ipse tunc pretium illud solvere noluerit, tunc debet dominus eum liberum facere: solvant*

That freedmen were free is also manifest from the 77th law of Henry the first^a, whereby it is provided, that if a slave, whether so by birth or in any other way, shall become free, his lord shall have his manbote as a freeman.

In our venerable record, freedmen are sometimes called bures^b, but the appellation was not appropriated to them^c; it was, as has been said before, rather a designation of persons employed in the taking care of oxen, or the labours of husbandry, than of a particular class of people. Freedmen do not seem to have been very numerous, but the reader may have

deinde cognati illius æstimationem capitis, si ille fidejussorem habere possit liberum, si non habeat, caveant sibi ab eo inimici ejus. Non cogatur liber cum servo cognationem solvere, nisi capitalem inimicitiam ab eo redimere velit, nec servus cum libero. Ll. Inæ. 74. Wilk. 26.

^a *Si quis servus, vel natus, vel factus in libertatem transeat, habeat dominus suus manbotam liberi. Ll. Hen. 1. c. 74. Wilk. 270.*

^b *Ibi IIII servi, et I ancilla, et III buri (colibti) reddt, &c. D. 174. b.*

De isto man hñ in Wallope v vill', et un servum, et un molendiñ, &c. xxx denar, et II car in dñio, et colibti (t. bures) ut sup reddt csuetudm alior. D. 38. b.

^c *T. R. E. erant VIII bur̄s, I colibti cum IIII car reddentes L solid' VIII den minus. D. 38.*

In dñio, &c. Ibi IIII servi, I ancilla, et III bur̄ colibti reddt III sext mell', et XL den. D. 174. b.

observed an instance in a note to a preceding page ^a, of thirty-eight of them being annexed to a manor, where were left only six slaves, and another is mentioned below, on which were two slaves and twenty-four freedmen ^b. It is observable, that they are mentioned most frequently in the western counties, as Hampshire, Dorsetshire, Devonshire, Cornwall, Somersetshire, Gloucestershire, and in those near to Wales, as Herefordshire, Warwickshire, and Shropshire.

The freedmen were generally employed with the slaves in the labours of husbandry upon the demesnes. They are sometimes, also, connected with mills ^c, which we may infer were usually left to the management of slaves. Some of them, however, were holders of land, and of course possessed of some property. In the manor of Bertune, were six who farmed six hydes, not of the demesne, but the arable land ^d. A freedman

^a *Ante*, p. 314, note ^c.

^b *In Bertune* II servi, et XXIIII colibti et II molini de XL solid'. D. 58. b.

^c *In dñio* est una car et dim et III villi, et XVI bord' cum una car et dimid'. *Ibi* IIII servi et IIII colibti, et un molin, &c. D. 38.

Ibi VI servi, et III molini de XXX solid' et XII colibti, cum IIII car. D. 39.

^d *Ipse rex* ten Bertune. *De firma* regis E. fuit, et dimidiū die firmæ reddidit in omnibus rebus. *Huic* adjacet Ordie, et

held a yard land in a forest, which he rented from the crown ^a. We read of six who paid annually eleven shillings and two-pence, and ploughed and sowed twelve acres with their own seed ^b. And of others who rendered three sextaries of wheat and barley, and two sheep and a half, with their lambs, and paid two-pence and a farthing ^c. These instances may suffice to shew that freedmen might have an interest in land; and in this respect they differed essentially from slaves, as will be seen in the next chapter.

A freedman might set up a charter of freedom against any attempt to make him again a slave,

est berennice. Nunq̄ in hid' numeratum fuit, nisi tantum VI hidæ, quas tenuer̄ colib̄ti et tenent. Numerus hid' non dixer̄. Trā ē XXV car̄. In dñio sunt V car̄ et XXVIII villi, et XLVII bord' cum XVIII car̄. Ibi VIII servi, et III molini de XLII sol' et VI den̄. Ibi VI colib̄ti et XXXVII ac̄ p̄ti. D. 38. b.

^a *Aluric petit tenet unam virgatam in foresta. Colibertus tenuit in firma regis, et modo Aluricus reclamationem hanc de episcopo de Saintes. D. 50. b.*

^b *In Aidimtune sunt XVI hidæ. De his sunt in dñio IX hidæ, una virḡ minus. Ibi II in dñio et VI vill' et II cot̄ cum II car̄. Ibi VI colib̄ti redd' p̄ ann̄ XI sol' et II den̄ et arant et seminant de p̄po semine XII ac̄s. D. 174. b.*

^c *Rex tenet Lene.—In dñio sunt II car̄, et XIX vill', et IX bord', et II radchen̄ cum XVI car̄. Ibi VI servi, et II ancillæ, et VI colib̄ti — Villi, dant de consuetudine XIII sol' et III den̄, et colib̄ti reddt̄ III sext̄ frumenti et ordeī, et II oves et dimid' cum agnis, et II den̄ et un̄ obolum. D. 179. b.*

and if he established it his adversary was bound to pay the fine mentioned in it, but if, on the contrary, the charter he produced was shewn to be invalid, his weregeld was to be paid, two parts to his adversary and one to the king, and he was again to make composition for his freedom according to the king's command^a.

DISMISSING now the consideration of those free-men who lived in the country and were engaged in agriculture, it will be necessary to advert to others who resided in the burgs, or military stations, and were called burgesses. The lands or houses they held were termed burgages, and

^a *Si quis de libertate sua interpellatus fuerit et timens ne in servitium cadat, aliquem de propinquis suis per quem in servitium cadere timet, occiderit, scilicet patrem aut matrem, patruelem vel avunculum, vel quamlibet hujus propinquitatis personam, ipse qui hoc fecerit, secundum legem saligam moriatur, et agnitio ejus, et consanguinitatis in servitium cadat. Et si neget quod eum occiderit ad novem vomeres ignitos examinandus accedat. Si quis per cartam ingenuitatis a domino suo legitimam est libertatem consecutus, liber permaneat. Si vero aliquis eum injuste cogat inservire, et ille per cartam ingenuitatis suæ ostendat, et convincat adversarium, ipse, qui hoc attemptavit multam, quæ in carta scripta est, solvere cogatur. Si vero non compareat carta, sed ab illo, qui inservire vult diffacta sit, weregildus ejus componat duas partes illi, qui inservire voluerit, tertiam regi, et iterum per preceptum regis libertatem ipsam componat. Ll. Hen. 1. c. 89. Wilk. 278.*

the services they performed were generally of a military nature, but they also paid geld to the king, and an annual rent, either in money or in the produce of their lands, to their lords. The incidents of their tenure we do not enter into here. Some of these burghs were possessed of considerable influence, and their burgesses enjoyed wealth and respectability, but persons of this description were in general so poor, and their tenements so small, that they lived in a constant state of dependence upon their lords. For this reason they have been sometimes mentioned by authors in terms of great contempt, and at others as degraded below the rank of freemen. But though in many places they were insignificant, both in numbers and wealth, they certainly were free. They might also be possessed of property, for by the 18th law of William the conqueror, which we have quoted before ^a, burgesses, as well as free tenants, paid Peter-pence in their own right, and were not excused by the payment of any lord on their behalf, as was the case of persons residing on his demesne. Every burgess possessing cattle valued at half a mark, paid a penny. And there were some distinguished burgesses, who, over their own bur-

^a *Ante*, p. 282, note ^b.

gages, or those of others, exercised the rights and assumed the privileges belonging only to barons or lords of manors.

IN one or other of the classes enumerated in the foregoing part of this chapter, all the freemen of England must have been included, and they were known indiscriminately by the name of ceorls, or, from their weres being 200 shillings, by that of twihinds. Doubts may have suggested themselves to the minds of some of my readers, notwithstanding the arguments I have urged, whether villans were entitled to be ranked with ceorls, and bear the name, but doubts of a stronger nature will probably have occurred as to bordars, cotters, and other labourers annexed to the demesnes of their lords. For the present, however, we shall dismiss the subject, and leaving our readers to form their own conjectures, proceed to inquire into the general rights and privileges of ceorls.

In order to obtain an accurate knowledge of the situation of ceorls, or ordinary freemen, it will be necessary to make a few short observations upon the internal police and municipal regulation which prevailed in the times of which we treat. These we shall find to have been,

though admirably adapted to secure the full exertions of the people in time of war, and to protect the lives and property of individuals from violence and fraud, yet such as in the present state of society could not be endured for a moment among us.

The feudal system may be traced throughout all the Anglo-Saxon history, but in no instance perhaps is it more strongly marked than in the laws of Æthelstan, whereby every freeman was required under the severest penalties to be provided with a lord, that he might be amenable to justice when called upon. If he had none, his relations were to be admonished to place him within the law, and they were to go to the folc-gemote, or public tribunal, of the district in which he was, and there they were to chuse one for him, but if they failed so to do the consequences were highly penal, for he was to be ever afterwards treated as a thief, any person was justified in taking him into custody, and if any one took him into his family he was to pay his were^a.

^a 2. *De hominibus domino carentibus.*—*Et statuimus de hominibus domino carentibus, a quibus nullus jus suum obtinere potest, ut oretur cognatio eorum, ut eos ad jus gentium adducant, et dominum iis inveniant in conventu populi, et si hoc tunc acquirere nolint, vel non possint, ad hunc terminum, tunc sit postea fugitivus, et pro fure eum capiat quisquis in*

A subsequent clause explains the latter part of this law, for if any man, not possessing land, left one scire and went to his relations in another, they were bound to have him ready to be produced if required by law, or to pay for him^a. And by a law of Ina, if any vassal left his lord without permission, or removed into the jurisdiction of another lord, he might be compelled to return to his first lord, and pay him sixty shillings^b.

If a person, after he had sought the protection of a lord, was desirous to remove into the jurisdiction of another lord in a different shire, he had the power to do so. But he was not permitted to exercise it without the knowledge of the alderman of the shire in whose district he had originally placed himself. Whoever received

eum inciderit, et si quis, hoc non obstante, illum hospitio excipiat, compenset eum capitis ejus æstimatione, vel ipsum hoc modo excuset. Ll. Æthelst. 2. Wilk. 56.

^a *Et diximus, si quis terra carens homo in alio comitatu (scire) serviat, et deinde cognatos suos visitet, et hoc modo ab ipsis hospitio excipiat, ut eum ad jus gentium ducant, si culpam commiserit, vel compensent. Ll. Æthelst. 8. Wilk. 57.*

^b *Si quis abeat a domino suo (his hlaforde) absque venia ipsius, vel in aliam provinciam (on othre scire), et ille deprehendatur, abeat ubi prius fuit, et solvat domino suo LX solidos. Ll. Inæ. 39. Wilk. 21.*

him into his family was to pay a penalty of 120 shillings, one moiety to the king, in the county which he had deserted, and the other half in that to which he had removed, and if he had misconducted himself in the county where he was settled at first, the lord who accepted him as his vassal was to make good the mischief he had done, and also pay to the king a fine of 120 shillings^a.

Moreover, after the relation of lord and vassal had taken place, the lord could not dissolve it, or permit his vassal to remove before he had cleared himself from every accusation. Until his innocence was publicly made known, the

^a *Si quis ex uno domicilio (of boldgætale) in aliud dominum (in other boldgætale hlaford) quærere voluerit, faciat hoc testimonio aldermanni, quem antea in sua provincia (on his scire) secutus est; si hoc eo inscio fecerit, solvat ei qui ipsum hospitio excepit cxx solidos pœnæ loco. Quorum dimidium dividat regi in provincia quam antea secutus est, dīmidium in ea, in quam nunc venerit. Si aliquid mali fecerit ubi prius erat, compenset hoc qui eum tunc in servum suscepit (to men onfo), et regi cxx solidos mulctæ loco. Wilk. 42.* “Bold” signifies a village, “gætale” may mean the reckoned number, and “boldgætale” may be put here for the population of a village, or its reckoned number of inhabitants. The lord of a boldgætale is here mentioned as distinct from the alderman in whose shire it is situated, and this law may be understood to relate to the removal of persons from one village to another, lying in different shires.

lord's responsibility was to continue ^a. Nor could the vassal abstract himself from the jurisdiction of his lord without permission, for if he did, or fled into another scire or jurisdiction, and was taken there, he was obliged to return to his lord and pay him sixty shillings ^b.

It may be mentioned here, so intimate was the connection between lord and vassal, that among the regulations of private war, which was unfortunately permitted to exist even in the times we are now describing, it was declared by a law of Ælfred to be the duty of a vassal to fight for his lord, and the lord for his vassal ^c.

A praiseworthy anxiety to prevent and punish crimes pervaded the whole system of the Anglo-Saxon jurisprudence, and it was not sufficient

^a *Et nemo servum suum (his men) a se amoveat antequam se purgaverit ab omni suspicione, cujus prius accusatus erat. Ll. Cnut. c. 25. Wilk. 138.*

Nemo hominem suum (sun hum) a se discedere patiatur antequam retatus fuerit. Ll. Gul. Con. c. 47. Wilk. 227.

^b *Si quis abeat a domino (hlaforde) suo, absque venia ipsius, vel in aliam provinciam (scire) fugiat, et ille deprehendatur, abeat ubi prius fuit, et solvat domino suo (his hlaforde) sexaginta solidos. Ll. Inæ. 40. Wilk. 21.*

^c *Item decimus, quod quis pro domino suo pugnet impune, si dominum quis oppugnet; ita dominus cum servo (men) pugnare debet. Ll. Ælfr. 38. Wilk. 44.*

that every freeman should be placed within the jurisdiction and under the superintendence of a lord or thane.

King Ælfred, as has been supposed, but probably the division existed, partially at least, before his reign, arranged the whole kingdom into counties, hundreds, and tythings. In every shire, county, and hundred, courts were established, and these districts were subdivided into smaller portions, over which individual lords were intrusted with the administration of justice by virtue of grants from the crown. By a law of Cnute every freeman for whom his lord was not immediately answerable, might be compelled to enter himself as a member of a tything, and to find pledges for his being forthcoming at the call of justice^a, but whether all the members of

^a *Volumus etiam, ut quilibet homo liber in centuriam et decemviratum conferatur, qui excusatione vel capitis æstimatione dignus esse, velit. Si quis eum post duodecim, ætatis suæ annum accusare velit, vel si ipse postea non sit aliquo privilegio dignus, sive sit paterfamilias sive pedisequa, ut quilibet in centuriam et ad fidejussionem ducatur, et fidejussionem ibi servet, et ad quodcunque jus ducat. Multi potentes si possint et debeant protegere servum suum (his man) volunt quocunque modo judicaverint æquum, ut ipsum facile defendere queant, sive liberum sive servum. Sed nolumus hanc injustitiam pati, et volumus ut quilibet homo (man) XII annos*

the tything were pledges for the appearance of each, may be justly doubted. In no collection are found any laws relating to this subject, one of Edgar requires every freeman, individually, to find a pledge for himself^a, which would be unnecessary if all the members of the tything were already his pledges, and liable to answer for him. In the code of Æthelred is a similar provision^b. The earliest legislative notice of the enrolment of freemen in tythings, is that of Cnute, quoted in the note at foot of the last page. Even by the laws of Edward the confessor, which are more full than any other, the tything was not made responsible immediately for the appearance of a culprit, but if the members of it could not clear themselves

natus jusjurandum præstet, se nolle furem esse, neque furi consentaneum. Ll. Cnuti. 19. Wilk. 136.

^a *Quilibet homo inveniat sibi fidejussorem, et fidejussor illum ad quolibet jus ducat, et custodiat, et si quis tunc injuriam faciat et clam aufugiat, portet fidejussor quod ille portare debuerat. Ll. Eadg. 6. Wilk. 78.*

^b *Hoc est ut quilibet liber (freoman) fideles fidejussores (getreowne borh) habeat, ut fidejussor illum ad omne jus præsentet, si accusaretur.—Ll. Æthelr. 1. Wilk. 102.* It would be more correct, if, instead of *fideles fidejussores*, we were to read *fidelem fidejussorem*, in the singular number, as in the law of Ædgar in the preceding note.

from suspicion and take and surrender him to justice, they were made ultimately to answer for the loss he had occasioned if his own means should prove deficient^a; and a law of William the conqueror, while it enforces that of Æthelstan, is silent about tythings^b.

Persons unconnected with land could not be very numerous, except those who made part of the families of the lords, as relations, retainers, or servants. These last are frequently alluded to in the Saxon laws, and generally as connected with, or contrasted with slaves. Thus, to select one out of several passages from the laws of Wihtred, a master was liable to the pillory if he gave any flesh to his servants (theowum), whether they were free or servile (ge frigne, ge theowne), on fast days^c, and if a freeman worked at a forbidden time he was also liable to the pillory^d. So

^a Wilk. 201. See *Will. Malms.* 24. *Ingulph.* 495. b.

^b *Omnis homo, qui voluerit se teneri pro libero, sit in plegio, ut plegius eum habeat ad justitiam, &c. Ll. Gul. Con.* 64. Wilk. 229.

^c *Si quis servis suis (his theowum) in jejunio carnem det, tam liberis quam servis (ge frigne ge theowne), collistrigium redimat. Ll. Wiht.* Wilk. 11.

^d *Si liber homo autem, id fecerit (i. e. worked on a Sunday) tempore vetito, sit reus collistrigii, et qui eum detulit*

by the laws of Ina, if a freeman worked upon a Sunday without the orders of his lord, he was to lose his liberty or pay a fine^a. And in the laws of Ælfred certain holidays were allowed to all freemen, but not to slaves or servile workmen. We have noticed before that freemen, who were the hired servants or *servientes* of a lord, were placed immediately under his protection, were considered as of his family, and he was pledged for their appearance in courts of justice^b, of course they were not members of any tythings. Whether among persons of this description were to be included the “*conductitii, vel solidarii, vel stipendiarii*,” mentioned in the 8th law of Henry the first, quoted before^c, is not clear. But those words are capable, in an extensive signification, of embracing not only the immediate servants and retainers of the lord’s household, but all day-

habeat mulctæ, et æstimationis capitis dimidium. Ll. Wiht. Wilk. 11.

^a *Si autem liber (frigea) eo die operetur absque domini sui jussu, perdat libertatem suam vel sexaginta solidos, et sacerdos duplum debeat. Wilk. 15.*

^b *Omnibus ingenuis hominibus (freoum mannum) dies hi sint remissi, exceptis servis et operariis (but an theowum mannum et esne ryghtum) duodecim dies in natali domini, &c. Ll. Ælfr. 39. Wilk. 44.*

^c *Ante, p. 301, note^b.*

labourers and workmen in his fields, and all the bordars, cotters, and other inferior freemen annexed to his demesnes. We have shewn that all of this description, except villans, held either very little or no land, and their labours must have been remunerated, in the whole or in part, by the payment of money or the allowance of provisions for the subsistence of themselves and families. If then these hired retainers were placed under the immediate protection of their lords, we may understand why they were not allowed to enter into tythings, and the requisition that they should find each two pledges for their good behaviour might be intended to prevent the lord from ultimately sustaining any loss by their misconduct. A similar provision is alluded to in a law of William the conqueror, which required every lord to have his servant or his pledge ready to answer any accusation brought against him in the hundred-court^a. As the king's mund did not extend to protect the servants of the officers of his household, it may be fair to presume that the privilege of thanes or lords could not extend to the servants of theirs, but that they

^a *Quilibet etiam dominus habeat servientem suum aut plegium suum, quem, si non retatus fuerit, habeat ad rectum in hundredo. Ll. Will. Con. 49. Wilk. 227.*

were obliged to be in pledge and tythings, like any other ordinary freemen ^a.

If the son or grandson of a ceorl acquired five hydes of land liable to military service, he was raised to the rank of a thane, and if any body killed him his were was 1200 shillings, and we may presume he was entitled to all the general privileges of that order; but however exalted his situation might be in other respects, if he did not possess the necessary landed qualification his elevation was not complete. By commerce, or entering into holy orders, however, as has been mentioned before, a ceorl might be ennobled, but I have not discovered any other mode by which the necessity of possessing a landed qualification could be dispensed with, unless perhaps, by the holding of an office under the king, or some potent lord.

Ceorls, or ordinary freemen, were excluded from the wittenagemotes and great councils; they had neither the rank nor landed qualification requisite to entitle them to seats in those assemblies, but we may presume that their favour was

^a *Si quis regii præfecti fabrorum aut pincernæ famulos occiderit, moderatam mulctam ordinariam solvat. Regis patrociniū violatum L solidis compensetur. Ll. Æthelb. 7, 8. Wilk. 2.*

deemed of some political consequence, since we read that Cnute banished Eadwig or Edwin, who was distinguished by the appellation of “the king of the ceorls^a.”

Among the privileges belonging to ceorls may be reckoned that of hunting in their own lands, provided the exercise of it did not interfere with the rights of the crown. The 77th law of Cnute gives this liberty in general terms to every man who *had* woods and fields^b, but the words of the law seem to confine it to the owners only of land, and to exclude any claim on behalf of the occupiers.

Freemen of the lowest description were liable to be called from the labours of husbandry, and take their turns in military duty, as well as those who were bound by tenure to attend the fyrds. Their arms were spears and swords; the thanes composed the cavalry, and they made up the

^a 1. 8. *Ædwig ætheling, et Edwig ceorla cyng.* C. S. 151.

Rex Canutus clitonem Edwinum, regis Eadmundi germanum, et Eadwinum, qui rex appellabatur rusticorum exlegavit. Hoveden. 250. b.

^b *Volo etiam ut quilibet homo (man) sit dignus venatione sua in sylva, et in agris sibi propriis (his agenan), ac absteineat quilibet a venatione mea, ubicunque pacem haberi volo, pro plena mulcta (wite).* Wilk. 146. And this law is recognized in the 35th law of Edward the confessor, Wilk. 205, in these words: *Et omnis sit venatione sua dignus in nemore, in campo, in dominio suo, &c.*

infantry of the Anglo-Saxon armies. But as a ceorl might be possessed of those arms which were appropriated to the use of thanes, that is to say, a helmet, breast-plate, and sword inlaid with gold, without enjoying the rank and privileges of a thane, it is probable that some of the richer ceorls were permitted to serve on horseback. And we may infer, that the kindred or family connection of a twihind might occasionally be formidable to the constituted authorities, for provision was made for the overpowering any resistance made by him or them in defence of a thief^a.

If a ceorl failed in duty to the fyrd, he forfeited, by a law of Ina, 30 shillings^b, while a sithcundman having land, as has been mentioned before, forfeited for a similar offence 120 shillings and his land, but if he had no land 60 shillings. If any man fled from his lord or his own companion through cowardice, in any fyrd, whether by land or sea, he lost his life and all he had,

^a *Et si eveniat ut aliqua cognatio adeo fortis, et adeo magna sit, intra terram vel extra terram mille ducentorum (xii hýnde), vel ducentorum solidorum (twýhýnde), ut nobis rectum nostrum deneget, et furem defendat, ut eos adeamus omnes cum præposito, in cujus mansionem (monunge) est. Jud. Civ. Lund. Wilk. 67.*

^b *Colonus (ceorlisc) triginta solidos pro militiæ detrectatæ mulcta leges. Inæ. 51. Wilk. 23.*

and his lord might not only seize his personal property, but resume the land he had before granted to him, and if he had any bocland it reverted to the king^a.

The Saxon laws of earliest date are more minute than the modern ones in their provisions respecting freemen. In order to protect their personal liberty, it was enacted in the laws of Æthelbirth that whoever put a ceorl into bonds should forfeit 20 shillings^b. The laws of Ælfred afterwards reduced the fine to be paid for binding an innocent ceorl, to 10 shillings, but inflicted 20 shillings if he was whipped, and 30 shillings if carried to the stocks. From the remaining

^a *Servus* (man) *etiam aufugiens a domino suo, vel a socio suo per segnitiam suam, sive sit in navali expeditione, sive in terrestri, perdat omne, quod habet et propriam vitam et capiat dominus possessionem illam ac terram ejus, quam ipsi prius dedit. Et si propriam terram habeat* (bocland), *regis manibus ei tradatur. Et servo* (man) *qui in expeditione ante dominum suum ceciderit, sive sit intra regionem sive extra, sint armamenta* (heregeata) *remissa, et capiant hæredes terram et possessionem ac dividant ea, quam æquissimè. Ll. Cnut. 75. Wilk. 145.* It is manifest that the word "man" is here improperly translated "*servus*," for he was to forfeit his land and other property to his lord, and might also be possessed of bocland.

^b *Si quis ingenuum hominem vinxerit xx solidos compenset* Wilk. 3.

part of this law, it seems that the Saxons were proud of their beards, and that to shave them by force was reckoned a great offence. If a ceorl was shaven, in order to insult him, the fine was 10 shillings; if he was shaven in the same manner as a priest, it was 30 shillings. If his beard was cut a second time the offender paid 20 shillings, but if he was first bound, and then shaven in the manner of a priest, the fine was advanced to 60 shillings^a. By a law of Ina, if any one purchased a man belonging to the same district, whether free or servile, and sent him beyond sea, though he was charged with a crime, yet he paid to him his were, besides making restitution to God^b. And by the laws of Cnute the stealing of a freeman, and selling him, and secretly

^a *Si quis colonum (ceorliscne man) innocentem vinculis constrinxerit, decem solidis emendet, si eum verberaverit viginti solidis emendet. Si eum ad ergastulum perduxerit, xxx solidis emendet. Si ipsum in opprobrium ignominiosum totonderit x solidis emendet. Si illum in presbyterum tondeat solutum xxx solidis emendet. Si barbam ejus resecavit xx solidis emendet. Si eum vinciat, et tunc in presbyterum tondeat lx solidis emendet. Ll. Ælfr. 31. Wilk. 42.*

^b *Si quis popularem (agenne leodan) emerit, servum vel liberum (theowne oththe frigne) quod si criminis reus sit et trans mare miserit, compenset illum capitis ipsius æstimatione, et apud deum sufficienter restituat. Ll. Ince. 11. Wilk. 17*

carrying him away, so that he could not answer for himself, was punished with death ^a.

If any one killed a free man the king received 50 shillings, as sovereign lord ^b. If a working slave or *esne* killed a freeman, the compensation was fixed at 100 shillings, and the owner or master of the homicide was to deliver him up, *and add the price of a man* ^c. These last words admit of various interpretations, but the most satisfactory may be to understand the price of a man, here alluded to, to mean the value of the were, or perhaps manbote, of the homicide. A former law had provided that, upon the death of an eorlcunde-man by the hand of an esne, the compensation should be 300 shillings, and the owner was to deliver up the offender, and pay the value of three men ^d.

^a *Qui hominem liberum (frione) furetur, illumque vendat, et obreptus sit, ut ipsum recipere nequeat morte moriatur.* Ll. Ælfr. 15. Wilk. 29.

^b *Si quis hominem liberum (frigne mannum) occiderit rex L solidos pro dominio (to drihtin) recipiat.* Ll. Æthelb. 6. Wilk. 2.

^c *Si alicujus servus hominem liberum (mannes esne frigne man) occidat, tunc sit c solidorum compensatio, dominus (se agende) homicidam tradat, et adjiciat aliud viri pretium (other manwyrth).* Ll. Hloth. & Ead. 3. Wilk. 8.

^d *Si cujusdam servus nobilem (gif mannes esne eorlcunde mannan) occiderit, tunc sit trecentorum solidorum compen-*

The mund, or jurisdiction which a ceorl had over his habitation and dependents, was preserved from violation by a law of Ina, which imposed a penalty of six shillings for every offence^a, and it is observable that the security of his humble rights was provided for in the same law, and in the precisely same terms, except as to value, as were applied to the mund of the king himself.

The mund was not confined to the house or person of any one, but extended to all places, and included all persons over whom he had the rights of a master or lord; and mundbryce, or breach of the mund, was an entirely distinct offence from breaking into a house, or curtelage, and disturbing the owners in the peaceable enjoyment of it. For that the law had other names, burgbrice, in cases where the injury was committed against the king or any of the nobility, and edorbreche, where it was committed against a ceorl. A law of Ina required ceorls to surround their curtelage by hedges, and their pasture lands to

satio, dominus (se agend) homicidam illam tradat, et huic addat trium hominum valorem (thrio manwyrth). Ll. Hloth. & Ead. 1. Wilk. 7.

^a *Plebei patrociniū violatum (ceorles mundbyrd) vi solidis emendetur. Ll. Æthelb. 15. Wilk. 3.*

Regis patrociniū violatum (kyninges mundbyrd) L solidis compensetur. Ib. Ll. 8. Wilk. 2.

be separated in the same manner^a. It has been conjectured, in a former page^b, that the title of burgs was given to the palaces of kings, and the houses of the nobility, including even sixhindmen, and that trespasses upon their houses and land were distinguished by the general appellation of burgbryce; and we may conclude that edorbryce was the appropriated term for injuries committed upon the property of ceorls, or ordinary freemen, from the fence, in Saxon “edor,” with which their curtelage was required to be surrounded. In the laws of Æthelbirth a fine of four shillings was imposed upon any freeman who should pass over this hedge, but if he committed any trespass upon the land within it, the offence became edorbryce, and the fine was raised to six shillings^c.

By the laws of Hlothaire and Edgar, if any one within the curtelage of another, charged a

^a *Rustici* (ceorles weorthig) *prædium hyeme et æstate septo sit cinctum. Si non sit cinctum, et ingrediatur vicini ejus pecus per portam illius propriam, nullum animal pecoris hujus habeat, abigat illud foras et perdat damnum suum. Ll. Inæ. 40. Wilk. 21.*

^b *Ante*, p. 240.

^c *Si liber homo septi violationem (edorbrecthe) fecerit vi solidis emendet. Ll. Æthelb. 28. Wilk. 4.*

Si liber homo septum superaverit (edorgeganged) iv solidis emendet. Ll. Æthelb. 30. Wilk. 4.

third person with being perjured, or provoked him by improper words, he was to pay to the owner of the curtelage one shilling, and to the person he had abused six shillings, and to the king twelve shillings^a. If the curtelage was stained with blood, the offender paid mundbyrd to the owner, and fifty shillings to the king^b. And by a law of Ælfred, which has been quoted before^c, whoever fought in a cyrlisc man's curtelage was to forfeit six shillings, but if he only laid hold of his arms and did not fight, he paid three shillings, and the ceorl was protected against similar violence from either sixhinds or twelfhinds, by larger penalties adapted to their superior rank, the former paying three times, and the latter six times as much as a common freeman.

By a law of Æthelbirth, if a freeman lay with the wife of a freeman, he forfeited his wergeld, and was obliged to purchase another wife for the

^a *Si quis aliquem in alterius area (flette) perjurum vocet, aut ipsum ignominiosis verbis inhoneste compellet, solidum solvat ad eum, qui aream possidet (flet age) et sex solidos ei, in quem hoc verbum dixit, et regi XII solidos persolvat. Ll. Hloth. & Ead. 11. Wilk. 9.*

^b *Si area illa (that flet) cruentur, compenset viro isti patrocinium (mundbyrd) et regi quinquaginta solidos. Ll. Hloth. & Ead. 14. Wilk. 9.*

^c *Ante, p. 264, note b.*

husband he had injured, and to take her to him^a. And by the laws of Ælfred the wife of a ceorl was protected from personal violence, and pecuniary penalties were incurred by those who made attempts upon her chastity, varying according to the degrees of violence used. These penalties were calculated upon the same proportion to those which protected the wives of persons of higher rank, as their respective weres bore to each other^b.

By a law of Ælfred, if any man by menaces compelled a female slave to lie with him, he was liable to pay five shillings to the ceorl, and sixty shillings for a wite; but if a slave committed the crime upon a slave, he was to be deprived of his virile member^c. If any man lay

^a *Si liber homo cum liberi hominis uxore concubuerit, ejus capitale (wer gelde) redimat, et aliam uxorem propria pecunia mercetur et illi alteri eam adducat. Ll. Ethelb. 32. Wilk. 4.*

^b *Si quis coloni (ceorlescne) uxoris mamillas attrectaverit quinque solidis ei emendetur. Si prosternat eam, nec rem cum illa habeat, decem solidis emendet. Si rem cum illa habeat, sexaginta solidis compenset. Si alius vir cum ipsa prius coivit, dimidium hujus sit emendatio. Si quis illum accuset, excuset hoc sexaginta hydīs, vel perdat dimidium emendationis. Si illustris familiæ marito hoc accadat, emendatio pro capitis æstimatione crescat. Ll. Ælfr. 11. Wilk. 37.*

Qui desponsatam alterius vitiaverit, forisfaciat weram suam domino suo. Ll. Will. Cong. 14. Wilk. 221.

^c *Si quis coloni (ceorles) mancipium ad stuprum comminetur, quinque solidis colono (ceorle) emendet, et sexaginta*

with a female slave who acted as cup-bearer to a ceorl, he paid six shillings ; if he lay also with any other of his slaves, he paid ten scættas ; and if with a third, thirty scættas^a. Hence we may infer that ceorls were attended chiefly by females, and in considerable numbers.

Adultery committed by the wife of a ceorl was punished with great severity, she was rendered infamous, her husband became entitled to all she possessed, and she was to lose both her nose and ears^b ; and it seems that these penalties were inflicted upon wives of all ranks, whether of ceorls, sixhinds, or twelfhinds^c. It was lawful

solidis mulctæ loco (to wite). Si servus servam ad stuprum coegerit, compenset hoc virga sua virill. Ll. Ælfr. 25. Wilk. 40.

^a *Si cum plebeii (ceorles) pocillatrice quis concubuerit vi solidis emendet, pro alia serva (theowan) x scættas, pro tertie sortis xxx scættas solvat. Ll. Æthelb. 16. Wilk. 3.*

^b *Si marito vivo uxore (cwycum ceorle wif) cum alio concubuerit, et illud manifestum fieret, fiat ipsa in posterum infamia mundi, et habeat verus maritus omnia quæ possidebat, ac perdat utrumque tam nasum quam aures. Et si accusatio sit, et purgatio fracta sit, tunc episcopus potestatem habeat et severissime judicet. Ll. Cnut. 50. Wilk. 142.*

^c *Similiter conceditur ut homo cum germano suo cognato communicet in omni necessario, similiter pugnare potest homo contra eum, quem cum desponsata sibi uxore, post secundam et tertiam prohibitionem clausis hostiis vel sub una coopertura inveniat sive cum filia sua, quam desponsata genuerit, sive*

for a married man to fight against any person whom he found, after having been prohibited three times, with his wife with closed doors, or under the same roof, or with his daughter, or his married sister, or his mother.

By the laws of Ina, if the loaf-eater, that is, the guest or inmate of a ceorl, was killed, the penalty was the same as for killing the ceorl himself, namely, six shillings ^a.

Among the specific provisions against offences committed by ceorls, as distinguished either from persons of higher or lower rank, we find that, if he sacrificed to the devil, without the knowledge of his wife, he forfeited all he had, but if she participated in the offence, they were both to be punished by the pillory, and lose all their property ^b. But in the *Northumbrensiū Presby-*

cum sorore sua, quæ desponsata sit, sive cum matre sua, quæ patri suo fuerit desponsata. Pecunialis autem emendatio legibus inventa est, si desponsata fæmina fornicetur, et cyrlisca, vel syxhinda, vel twelfhinda sit, et corporalis diffactio persistentibus instituta. Pensandum autem per visum accusantibus visum concubitus propensius advertendum, ut scilicet ipsas coeuntium naturas viderit commisceri. Ll. Hen. 1.82. Wilk. 274.

^a *Si quis plebeii (ceorles) convictorem (hlafætan) occiderit VI solidis emendet. Ll. 25. Wilk. 3.*

^b *Si maritus (ceorl), absque uxoris scitu, diabolis immolet, omnibus fortunis suis (ealra his æhtan) plectitor et collistrigio : si ambo diabolis immolent, sint collistrigii et omnium possessionum rei. Si servus (theow) diabolis offerat, sex solidos compenset vel cutem suam. Ll. Wiht. Wilk. 11.*

terorum Leges all attachment to paganism was forbidden, and fines were laid upon delinquents, in proportion to their respective conditions in life. We have mentioned before that whoever practised sacrifices, administered poison, or worshipped any idol, if he was a king's thane, forfeited ten semi-marcs, one half to Christ, the other to the king; any other possessor of land forfeited six semi-marcs, and if he was a ceorl, he paid only twelve ors, and this distinction was further preserved in their several defences ^a.

Many laws were enacted for the punishment of thefts committed by ceorls or ordinary freemen. If a freeman stole from the king, the laws of Æthelbirth required that the loss should be compensated by payment of nine times the value ^b, but if he stole from a freeman, he was to pay a threefold compensation to the party injured, and to the king his wite and all his personal property ^c. If a married ceorl committed theft, and carried the plunder into his own house

^a Wilk. 100, copied *ante*, p. 269, note ^a. Not understanding the word "firhte," translated by Wilkins into the Latin word *stupefactione*, I have omitted it entirely in the text above.

^b *Si liber homo (frigman) regi furto quid auferat, novena compensatione compenset. Ll. Æthelb. 4. Wilk. 2.*

^c *Si liber homo a libero quid furetur tripliciter emendet, et rex habeat mulctam (wite), et omnia ejus bona. Ll. Æthelb. 9. Wilk. 2.*

or secret place, he was to make compensation, but his wife, though a party in the crime, was to escape punishment, because it was her duty to obey her husband, and if she could swear that she was not accessory, she had a right to take to herself a third of his property, which in common cases was wholly forfeited to the king^a.

If a ceorl, after having been frequently accused of theft, fled and was then taken in the fact of selling the stolen goods, or in the commission of any other crime, he was to have his hand or foot cut off^b. And if any one received into his family a

^a *Si maritus (ceorl) aliquid deprædetur et persuadeat ad id uxorem suam (and bereth into his ærne), et deprehensus sit in eo vir, tunc suam partem compenset ille, excepta uxore, quoniam ipsa superiori suo obedire debet. Si ea jurejurando confirmare audeat, se cum deprædato non participasse, sumat tertiam ejus portionem. Ll. Inæ. 57. Wilk. 24.* Wilkins seems to have mistaken the meaning of the words "bereth into his ærne." Literally translated, the law might be rendered thus: "If a ceorl stole any thing and carried it into his house, and he was apprehended in so doing," then, &c. The exception in favour of the wife, in cases of larceny, is preserved in our law to the present day.

^b *Si villanus homo (cyrlic mon) sæpe accusatus tandem deprehensus fuerit, manus aut pes ei amputetur. Ll. Inæ. 18. Wilk. 18.* This is omitted in the Howard MS. and apparently with propriety, for it is repeated, with additions, in the 37th law. *Colonus (cyrlicse man), qui sæpe furti accusatus fuit si tandem aliquando reus inveniatur in emptione vel alia publica culpa, abscindatur ei manus vel pes. Leges Inæ. 37. Wilk. 20.*

ceorl flying from justice, he might be excused upon payment of his own were, but if he failed to pay it, he became liable to pay in addition, the were of his companion also ^a.

In general, a ceorl might exonerate himself from a criminal charge by his own oath at the altar, with four compurgators ^b, and it seems that one of them was to come from the town to which the culprit belonged ^c.

If a ceorl lived in adultery, he forfeited fifty shillings, and was required penitently to give up that way of life ^d.

Many of the Anglo-Saxon laws discover a particular anxiety to prevent the lower classes from

^a *Si quis colonum (cyrlicne mannum) fugitivum hospitio excipit, et eum nutrit proprii capitis æstimatione excuset eum. Si hoc nequeat, compenset ipsum propria capitis ejus æstimatione, et socium (gesithman) etiam, juxta capitis sui æstimationem. Ll. Inæ. 38. Wilk. 19.*

^b *Colonus (ceorlisc man) quatuor sociis suis (se purget) ad altare. Ll. Wiht. Wilk. 12.*

^c *Si liber homo aliquem (mannan) furetur, si postea venerit accusator, det responsum, purget se si possit, habeat ibi quatuor consacramentales, et unum conjuratorem quemlibet ex illa villa (tune) ad quam pertinet; si hoc non possit, compenset prouti sufficit. Ll. Hloth. & Ead. 5. Wilk. 8.*

^d *Si sit colonus (ceorlisc man) quinquaginta solidos compenset, et nihilominus concubitum eum pœnitentia deserat. Ll. Wiht. Wilk. 10.*

treating with disrespect Sundays or holidays, or not strictly keeping fast-days. Deferring till the next chapter the consideration of breaches of the law committed by slaves, we shall shortly advert to some of the restraints imposed upon freemen. If a freeman worked upon a Sunday, without the command of his master, he lost his liberty, or paid a fine of sixty shillings^a. And in the ecclesiastical code made in Northumberland, Sunday was to be completely a day of rest; no market was to be held, no meeting assembled, no work done, and no journey made. If a freeman offended in any of these particulars, he was to pay a fine of twelve ors, unless, indeed, he had been compelled to travel to supply the want of food, or in war, when he might pass between York and six miles round it^b. If any one made

^a *Si servus homo (theow mon) die dominico operetur jussu domini sui (his hlafordes) liber sit, et dominus debeat xxx solidos pro pœna. Si autem servus absque ejus scitu operetur, verberibus cœdatur vel cutis pretium solvat. Si autem liber eo die operetur absque domini sui jussu, perdat libertatem suam vel sexaginta solidos, et sacerdos duplum debeat. Ll. Inœ. 3. Wilk. 15.*

^b 55. *Diei solis mercaturam prohibemus ubique, et omnem populi conventum et omne opus, et quamlibet peregrinationem, tam in curribus (on wæne), quam in equis, et cum oneribus. North. Presb. Leges. Wilk. 101.*

56. *Si quis aliquid horum fecerit, solvat mulctam homo*

a purchase upon a Sunday, he was, by the treaty agreed upon between king Edward and Guthrun, to lose the thing purchased, and among the Danes twelve ors, but among the English thirty shillings ^a.

If a freeman worked upon a festival he was to lose his liberty, or pay his wite and lahslite ^b, and, by the treaty just mentioned, a similar offender was to be punished by the fine which he was liable to pay for his halsfange, besides making such compensation to God as by law required ^c.

If a freeman did not regularly keep a fast-day, *liber XII oras, servus vapulet, nisi peregrinari debeat ex necessitate, cibi inopiam portare; et propter bellum (unfrithe) proficisci licet vigiliis festorum necessitatis causa inter Eboracum, et sex miliaria mensurata.*

^a *Si quis die dominica mercari præsumat, perdat mercatum et XII oras apud Danos, et XXX solidos apud Anglos. Fæd. Ed. & Guth. 7. Wilk. 52.*

^b *Si liber homo die festo operetur, perdat libertatem suam, vel solvat mulctam (wite) et legis violatæ pœnam (lahslite). Servus homo (theow man) vapulet vel verbera redimat. Si dominus servos (theowan) suos die festo ad opus cogat, solvat legis violatæ pœnam (lahslihte) dominus juxta leges Danorum, et mulctam (wite) apud Anglos. Fæd. Ed. & Guth. 7. Wilk. 52.*

^c *Si liber homo die festo laboret, tunc compenset hoc obstricti colli mulcta (halsfange), et saltem apud deum diligenter compenset prouti docetur. Servus si laboret, vapulet, vel pretium verberum, pro ratione ejus quod factum est luat. Ll. Cnut. 42. Wilk. 141.*

the same treaty imposed the payment of his regular lahslite among the Danes, and his wite among the English ^a, and the laws of Cnute repeated the clause ^b.

It is observable, in tracing these offences, that among the punishments inflicted upon freemen whipping never occurs, and we shall find in the next chapter, as may be collected from some of the foregoing notes, that this punishment was appropriated to slaves. Another mark of distinction between the free and servile ranks appears from a comparison of the penalties imposed in cases of homicide. The were of a ceorl we have before shewn to have been the sixth part of that of a thane, and it was to be paid to his relations, but the penalty incurred for killing a slave was to be paid to his master.

A freeman did not lose his freedom by holding any tenement, or submitting to perform any service, however base, for his freedom was

^a *Si liber homo justum jejunium dissolvat, solvat mulctam (wite), vel legis violatæ (lahslite) pœnam. Si servus hoc fecerit vapulet, vel verbera redimat. Fæd. Ed. & Guth. 8. Wilk. 53.*

^b *Si liber homo verum jejunium dissolvat, solvat violatæ legis pœnam (lahslite) apud Danos, mulctam (wite) apud Anglos, pro ratione ejus, quod factum est * * * * . Si servus hoc fecerit, vapulet, vel pretium verberum pro ratione ejus, quod factum est luat. Ll. Cnut. 43. Wilk. 141.*

personal. We have seen that thanes might serve as villans without degradation, and that a ceorl might hold as a thane without any change of rank. Bracton expressly states the general rule of law to be the same in his time, and adds that a freeman might hold in pure villanage². It is from authors not attending to this circumstance that much confusion has been introduced into the history of the Anglo-Saxons, and many obstacles raised in the way of those who wish to investigate their legal antiquities. The recollection that a freeman, or *liber homo*, might be found performing servile work on a lord's demesne, will reconcile many difficulties; but the full consideration of this part of the subject properly belongs to another part of this work.

There were several different ways in which a freeman might voluntarily become a slave, and which will be particularly mentioned in the ensuing chapter.

The loss of freedom was also a punishment inflicted for various offences. We have mentioned

² *Item tenementum non mutat statum liberi, non magis quam servi. Poterit enim liber homo tenere purum villenagium, faciendo quicquid ad villenagium pertinebit, et nihilominus liber erit, cum hoc faciat ratione villenagii, et non ratione personæ suæ.* Bract. lib. 2. c. 8. p. 26.

before that it was incurred by working on a feast-day, or on a Sunday, without the lord's orders; and, by the laws of Wihtred, if a freeman was taken with the chattel he had stolen in his hand, the king might elect which of three punishments he pleased, viz. he might deprive him of life, sell him beyond the sea, or receive his were^a. And by the laws of Edward, if, in consequence of a charge of theft, a freeman lost his liberty, and was deserted by his relations, and had nobody to pay for him, he was doomed to servile work, and his relations lost all right to his were^b. Hence we may infer that, after a freeman had been sentenced to lose his liberty, he might be restored if his relations would pay his were to the king; indeed, all or most of the punishments inflicted among the Anglo-Saxons might be commuted for by pecuniary payments.

This law of Edward was enforced by one of Ælfred, which enacted, that if any one stole an

^a *Si quis hominem liberum (frigne man) manu furtum tenentem comprehenderit, tunc rex ex tribus unum eligat, vel illum interficiat, vel trans mare vendat, vel solutionem æstimationis capitis habeat. Ll. Wiht. Wilk. 12.*

^b *Si quis ex furtis accusatione libertatem suam perdit, et otiari incipiat, et cognati ejus ipsum deserant, et nesciat quis pro eo compenset, tunc dignus sit servili opere (theow weorces wyrthe) quod ad id pertinet, et excidat capitis æstimatione parentibus ejus. Ll. Edw. 9. Wilk. 50.*

ox, and killed it, and was unable to compensate for it as required by that law, he was to be sold in order to raise the money^a. But a law of Ina was still more extensive, for if any one stole, and his wife and children were ignorant of the theft, he was to pay a fine of 60 shillings, but if his heirs were privy to his crime, then the whole family were to be sent away into slavery^b.

^a *Si quis alterius bovem furetur, et eum occidat, vel vendat, compenset ipsum duobus; et quatuor ovibus unam. Si non habeat quo compenset, ipse vendatur pro pecunia illa. Ll. Ælfr. 24. Wilk. 30.*

^b *Si quis furetur, ita ut uxor ejus et infans (bearn) ipsius nesciant, solvat sexaginta solidos pœnæ loco; si autem furetur testantibus hæredibus suis, abeant omnes in servitutem. Ll. Inæ. 7. Wilk. 16.*

CHAP. VI.

OF SLAVES.

IN the northern districts of Europe slaves had, from the earliest period, made a very considerable part of the population of each community, and when the Saxons established themselves in England they found many slaves among its inhabitants.

Under the Anglo-Saxon governments slaves by birth must have been very numerous, for probably few estates of any consequence were cultivated without their assistance. They are mentioned repeatedly in the laws of Henry the first^a, and were not permitted to enter into holy orders, unless they were lawfully released from bondage^b.

^a Ll. 70. Wilk. 265. Ll. 74. Wilk. 270.

Omnis autem vera liberorum est aut servorum. Servi alii natura, alii facto, et alii emptione, et alii redemptione, alii sua vel alterius datione. Servi, et quæ sunt aliæ species hujusmodi quas tamen omnes volumus sub uno servitutis membro constitui quem casum ponimus appellari, ut ita dictum sit. Servi alii casu, alii genitura, liberi alii twyhindi, alii sixhindi, alii thwelfhindi. Ll. H. 1. 76. Wilk. 269.

^b *Et nemo sub servitute natus, ante legitimam libertatem sacris ordinibus admittatur. Ll. H. 1. 68. Wilk. 269.*

Slaves might marry women who were free, and among the Saxons the rank of children, contrary to the usage in most other countries, depended upon that of the father, not of the mother. If therefore a person was killed, whose father was a slave, and mother free, the punishment was regulated as if he was a slave, and, on the contrary, if the deceased was born of a freeman, and a mother who was a slave, he was esteemed to be a freeman, whether he was an Englishman or not, but in some circumstances this might depend upon the will of his lord^a.

In general however, it may be presumed, that slaves were married to persons of the same condition with themselves, and that it was not often permitted to them to form connections in the superior ranks. The will of Wynfleda, preserved by Hickes, contains bequests which leave no doubt that slavery among the Anglo-Saxons was not merely personal, but included the wives and families also. She bequeathed to Eadwold,

^a *Si quis de servo patre natus sit, et matre libera, pro servo reddatur occisus in ea parte, quia semper a patre, non a matre generationis ordo texitur. Si pater sit liber, et mater ancilla, pro libero reddatur occisus, si sit Anglicus, vel non sit, et nihil interveniat cur remaneat: aliquando autem erit sicut Dominus ejus voluerit, vitulus autem matris est, cujuscunque taurus alluserit. Ll. H. 1. c. 77. Wilk. 270.*

out of her theowan-men or slaves, at Cinnuc, Ceolstan the son of Etstan, and the son of Effa, and Burwhyn Mærtin; and to Eadgifu, Ælfige her cook, and Tefl the daughter of Wareburga, and Herestan and his wife, and Ecelm and his wife, and their child, and Cynestan and Wynsing, and the son of Bryhtric, and Edwynne, and the son of Bunel, and the daughter of Ælfwere^a.

In the year 880, Æthelred, *dux et patricius Merciorum*, by the license of king Ælfred, gave to the church at Worcester certain manors, and besides, six men who had before belonged to the king's vill at Beonsingtune, with all their progeny and race^b. And in the reign of Edward the son of Æthelred, a list of the possessions of Horton Abbey contains the land of Morceshelle, and the family (hiwisc) of Sidepulla^c.

^a 1 *Thes. Pref.* xxii.

^b After certain *mansiones*, he gives *et insuper etiam huic donationi in augmentum sex homines, qui prius pertinebant ad villam regiam in Beonsingtune cum omni prole et stirpe eorum, ad eandem conscripsimus ecclesiam, cum consensu prefati regis et eorundem optimatum meorum, ut sine contradictione alicujus nobilis vel ignobilis, semper ad terram ecclesie supradicte pertineant in sempiternam hereditatem hoc possidenda donavimus, &c.* Signed by Ælfred rex, then by Æthelred dux, &c. 1 *Hem. Chart.* 61.

^c 1 *Mon.* 222.

The redemption of slaves was frequently accomplished, as we shall have occasion to shew hereafter, by the payment of money to their lords, sometimes by religious or other generous friends, sometimes by the slaves themselves; and, from the writings by which these bargains were carried into effect, we learn that their wives and families were also of servile condition. Aluric, a canon of Exeter, redeemed from Herberdi, Reind and his children, and all their offspring, for two shillings, and Aluric called them free and sacless, in town and from town, in God's love^a, Godwine Blaca liberated himself, his wife and children, from Hunewine the son of Hega, out of Topperham-land, for 15 shillings. Brighmær freed himself, his wife Ælgifu, their children and offspring, for two pounds. Leofenoth, son of Agelnoth, at Korstune, redeemed himself and offspring from Ælfsige the abbot, and the house at Bath, for five ors and 12 sheep; witnesses, Keasall the port gereffe and all the burg-ware of Bath. And, to mention one instance more, Ægelsig bought his son Wilsige's liberty for 60 pennies^b.

The next description of slaves were those who were born free, but voluntarily submitted to

^a Wanley's Catalogue, 152.

^b *Hickes. Diss. Ep.* 9. 10. 13.

degradation, comprehending all such as were not compelled by force of arms, or punishments inflicted for the commission of crimes. I have not met with any direct authorities to prove that the loss of liberty was ever incurred among the Anglo-Saxons as the consequence of desperate gambling, but their ancestors, the ancient Germans, are described by Tacitus as addicted to this vice with an anxiety that knew no bounds, and a temerity which frequently led them to strip themselves of their whole property, and then stake their liberty upon a single throw of the dice. Tacitus mentions with astonishment, that in case of the throw turning out to be unfortunate, the loser, however younger or more robust than his adversary, patiently, and as a point of honour, submitted to be bound, carried off as a slave, and sold as an article of commerce^a.

In cases of great poverty and distress it was not uncommon for freemen to sell themselves into slavery. In 1069 *Simon Dunelmensis* re-

^a *Aleam (quod mirere) sobrii inter seria exercent, tanta lucrandi perdendive temeritate, ut cum omnia defecerunt, extremo ac novissimo jactu de libertate et de corpore contendunt. Victus voluntariam adit; quamvis junior, quamvis robustior, alligari se ac venire patitur ea est in re prava pervicacia; ipsi fidem vocant. Servos conditionis hujus per commercia tradunt, ut se quoque pudore victoriæ exsolvant. Tac. de mor. Germ. 24. 252.*

lates that there was a dreadful famine in England, particularly in Northumberland and the adjacent provinces, and that some sold themselves into perpetual slavery, that they might in some way sustain a miserable life.

A freeman in abject poverty might relieve himself by selling his son into slavery, if the child consented, but not for more than seven years^a.

In like manner, if a freeman, becoming a pledge for payment of a debt, on that account surrendered himself into the power of another, and either paid the debt, or the debtor was discharged, and his wife, being free, bore him any children while he was in pledge, they were also free^b. From this passage we may infer that a freeman, who became security for another's debt, and delivered himself to the creditor, if the debt was not discharged, lost his freedom, and he and his children, born after he entered into the engagement, became the slaves of the creditor. His wife, who was originally free, probably continued

^a 1 *Wilk. Concil.* 130.

^b *Liber, qui se vadii loco in alterius potestate commiserit, et ibi constitutus dampnum solvat, aut hominem in malo, productum dimittat, perdens simul debitum, propter quod eum in vadio suscepit. Et qui dampnum fecit demissus juxta qualitatem culpæ cogatur emendare. Si vero liberam fæminam habuit, et filios interim, dum in pignore est, procreavit, liberi permaneant. Ll. H. 1. c. 89. Wilk. 278.*

to be so, and so perhaps did the children who were born free, that is, before the father was pledged for the debt.

Many crimes were punished by the loss of freedom. At the conclusion of our last chapter we noticed a law of Edward the elder, whereby if a freeman was sentenced to lose his liberty for theft, his relations might buy off the punishment by the payment of money, but if they failed he was obliged to do the labour of a slave^a; and a law of Ina, whereby if any one stole without the knowledge of his wife or child, he paid a fine of 60 shillings, but if he stole, and his family were privy to it, they were all obliged to go into slavery^b. This punishment was also inflicted upon some inferior offences, and the severity of the visitation can only be accounted for from the jealous anxiety of the clergy to give stability to the christian religion, which had recently superseded the pagan superstition, and was still struggling with it; for, by another law of Ina, if a freeman worked on the Lord's day without the orders of his lord, he was to pay 60 shillings, or lose his liberty^c. And, by the treaty made be-

^a *Ante*, p. 353.

^b *Ante*, p. 354.

^c *Si servus homo die dominico operetur jussu domini sui, liber sit, et dominus debeat xxx solidos pro pœna. Si autem*

tween Edward and Guthrum, if he worked on a feast-day he was to lose his liberty, or pay a wite and lahslite^a. But it is unnecessary to cite particular instances, for a criminal thus punished was known by an appropriate name, and called a *wite theow*, or penal slave^b. By this description he is mentioned in the laws of Ina, for if he had committed a theft recently before he forfeited his liberty, he was subject to be punished by whipping^c, but if he stole while he was a wite

servus absque ejus scitu operetur verberibus cædatur, vel cutis pretium solvat. Si autem liber eo die operetur absque domini sui jussu, perdat libertatem suam, vel sexaginta solidos et sacerdos duplum debeat. Ll. Inæ. 3. Wilk. 15.

^a *Si liber homo die festo operetur, perdat libertatem suam, vel solvat mulctam et legis violatæ pœnam* (wite and lahslite). *Servus homo vapulet vel verbera redimat. Si dominus servos suos die festo ad opus cogat, solvat legis violatæ pœnam** (lahslite) *dominus juxta leges Danorum, et mulctam* (wite) *apud Anglos. Wilk. 52.*

The Howard MS. ends with the word *pœnam**, and instead of the words *dominus, &c.* has *si servus hoc efficiat perdat corium suum vel hydgildum*.

^b Æthelstan, in the beginning of his laws, addressed to all his gerefas, commanded them *ut redimatis unum libertate mulctatum servum* (an wite theowne,) *et hoc omne factum sit ex Dei miserecordia, &c.* Wilk. 56. See the next note.

^c *De libertate mulctatis* (bewite theowum mannum.) *Si quis libertate mulctatus nuper servituti sit subjectus, et ipse accusetur quod furatus sit, ante quam servituti esset subjectus, tunc accusator ipsum semel afficere potest cogens eum ad verbera secundum capitale suum. Ll. Inæ. 48. Wilk. 22.*

theow, he was punished with greater severity than any other slave, and was to be hanged^a. If any other slave stole, the king had his election either to compel him to pay 70 shillings, or to sell him beyond the sea^b. Wynfleda, in her last will, directed the emancipation of some slaves, and extended her kindness also to her wite theow, if she had any^c. So an archbishop gave orders that all such should be freed, as in his time had been mulcted of their liberty^d.

The great supply of slaves seems to have been (as on the continent of Africa at the present day, and as has been the case with all nations at a particular period of their history and civilization) from the capture of prisoners of war. When the petty sovereigns of Britain made war against, and invaded the territories of each other, their efforts

^a *Si servus Anglus (theowe Englise man) libertate mulctatus aliquid furetur, suspendatur, et domino ejus non fiat compensatio. Si ille occidatur, non compensetur cognatis ipsius, nisi eum in duodecim mensibus redimerint. Wallus, si habeat quinque hydas, sexcentis (solidis æstimandus) est. Ll. Inæ. 24. Wilk. 18.*

^b *Si servus furatus sit, et redimatur septuaginta solidis, vel trans mare vendatur, utrum horum regi placuerit. Si quis illum occiderit, domino ejus dimidium solvat. Ll. Wiht. Wilk. 12.*

^c *Hickes. Pref. Gram. 22.*

^d *MS. Cott. Claud. c. 9, 125, cited 4 Turner. 127.*

were directed to the ruin of their antagonists, without regard to the means by which their object was to be effected. The horrors of war were not then mitigated by those restraints which are now submitted to by the civilized nations of Europe, and when the cries of helpless infancy and old age could not reach the hearts of savage warriors, self-interest sometimes prevailed upon them to save the lives of the wretched inhabitants, that they might carry them off, and employ or sell them as slaves. The history of these times affords abundant proof of the prevalence of this barbarous system.

The following story from Bede strongly marks the character of the period concerning which he wrote^a. He relates, that in the year 679 a young man named Imma, a follower of king Ælfuin, in Ælfred's translation a king's thane, being wounded in the battle in which Ælfuin was slain, was taken prisoner and brought before a *comes* or *gesith* of king Ædilred, to whom he gave a false account of himself, that he was a country fellow, and came with others of the same description to supply the army with provisions. His wounds were taken care of, but the orders given for binding him every night could not be

^a *Bed. Eccl. Hist. lib. 4. c. 22.*

complied with, for his bonds were miraculously loosed as soon as put on. The *comes* interrogating him secretly, and, under a promise that his life should be secure, obtained an account from him of his true situation, and, that he might recover his health, sold him at London to a Frisian, but when his master wished to remove him it was out of his power to bind him. His master therefore, having in vain tried different modes of restraint, gave him permission to redeem himself, and having sworn that he would either return or send the money for his redemption, he went into Kent to king Hlothaire, the nephew of queen Ædelthryde, whose thane he had formerly been, and having got the money from him, transmitted it to his master, and returned to his own country.

Bromton tells us that, from the reign of Ethelwolf till the time of the conquest, embracing a period of 230 years, the English were so harassed, principally by the Normans, that almost all of them were reduced to slavery, and it was a term of reproach to be called an Englishman^a. And historians agree in describing the inroad, which Malcolm king of Scotland made into the northern parts of England, through

^a P. 962.

Cumberland, as accompanied with particular circumstances of cruelty and outrage. Among others, he caused all the young men and women fit for labour to pass bound before the enemy, and carried them into Scotland, into perpetual slavery; and the male and female slaves of English extraction are described to be so numerous for many years afterwards, that there was not the smallest vill or house to be found in Scotland without them^a.

In the time of Elphege the archbishop, who was consecrated in the year 1006, Canterbury was burnt by the Danes, and of 8,000 men, four only of the monastic order, and eighty of inferior

^a *Erat enim eo tempore Cumbreland sub regis Malcolmi dominio, non jure possessa, sed violenter subjugata. Auditus ille (cum adhuc flamma suorum ardentem sancti Petri ecclesiam spectaret) quæ Cospatricus in suos fecerat, vix præ furore seipsum ferens, jussit suis ut nulli Anglicæ gentis ulterius parcerent, sed omnes vel necando in terram fundarent, vel captivando sub jugum perpetuæ servitutis abducerent. Qua licentia accepta, miseria etiam erat videre quæ in Anglos faciebant, &c. * * * **

Juvenes vero, et juvenculæ, et quicumque operibus ac laboribus idonei videbantur, ante faciem hostium vincti compelluntur ut perpetuo exilio in servos et ancillas redigantur.

** * * **

Repleta est ergo Scotia servis et ancillis Anglici generis, ita ut etiam usque hodie nulla non dico villula, sed nec domuncula sine his valeat inveniri. Sim. Dun. 201. A.D. 1070. Bromton and Hoveden give nearly the same account.

rank, survived, and these, as a matter of favour, were counted out into divisions of ten each, severely whipped, and then either allowed to redeem themselves by the payment of money, or carried off with their captors to perform the labour of slaves ^a.

This savage mode of warfare was continued in England, as well as upon the Continent ^b, till after the Norman conquest. Earl Godwin intercepted prince Alfred, the brother of Edward the confessor, at Guilford, in his way to London, seized his person, and defeated his guards; he imprisoned some of them, some he sold for slaves, some he blinded by pulling out their eyes, some he maimed by cutting off their hands and feet, some he tortured by pulling off the skins of their heads, and by various torments put about 600 men to death ^c.

^a *Quos primum beneficii gratia pro decimis computatos, deinde verberibus acriter exaratos, aut pecuniaria redemptione dignos judicaverunt, aut servilibus mancipandos operibus secum adduxerunt. Osbernus de vita S. Elphegi. 2 Ang. Sacra. 136.*

^b 1088. *Henricus clericus frater eorum (sc. Willielmus et Robertus germanus) entered Mount St. Michael in Normandy, et terras ipsius regis vastans, et homines quos poterat in captivitatem ducens. Brom. 986.*

^c *Hist. Elien. apud Gale. lib. 2. c. 32.*

THE Anglo-Saxons had two words generally descriptive of slaves, “*theow*,” and “*esne*,” but the distinction between them has never been made, as far as I know, the subject of discussion, and yet it is impossible to read the Saxon laws without perceiving that they were not synonymous. “*Theow*” may signify a slave in general, a person in the state of slavery, and “*esne*” a household or working slave, one whose occupation was distinct from the labours of husbandry. The distinction, perhaps, may be found in the 39th law of Alfred, where “*theowum mannum*,” and “*esne ryghtum*,” are mentioned^a; and in the 17th law both these words occur in conjunction, and “*his agenne theowne esne*,” his own slavish *esne*^b, is mentioned. So we find “*godes theowne esne*” used as the description of an ecclesiastical person^c.

^a *Omnibus ingenuis hominibus (freoum mannum) dies hi sint remissi, exceptis servis et operariis (theowum mannum, & esne wýhrtum), &c. Ll. Ælfr. 39. Wilk. 44.*

^b *Si quis servum suum proprium (his agenne theowne esne), vel ancillam (oththe mennen) percusserit, et ille eodem die non moriatur, licet vivat duos vel tres dies, non sit in omnibus æqualiter reus, quoniam pecunia ejus (agen feoh) erat. Si autem eodem die mortuus sit, tunc culpa in eo quiescat. Ll. Ælfr. 17. Wilk. 29.*

^c *Si Dei servitio serviens (godes theowne esne) in conventu accusetur, dominus ipsius eum uno juramento purget, si sacra eucharista utatur: si sacra eucharista non utatur*

The *esne* of the king is mentioned in the laws of *Wihtred*^a, and so is that of a bishop. Perhaps the true meaning of the word may be, a menial servant or workman, whether freeman or slave; and in this sense it may be used in the 84th law of king *Æthelbirth*, whereby it was enacted that if any man should lie with the wife of an *esne*, in sight of the *ceorl*, i. e. as *Wilkins* translates it, of the husband, he should pay a double forfeiture^b. Here we have the denomination of *ceorl*, which we have shewn in a former chapter belonged only to freemen, given to a husband who was an *esne*.

That the word *esne* did not always designate a person of servile condition further appears from *Bede's Ecclesiastical History*, where we find it applied to the son of a king; for in the year 632, *Osfrid*, the son of *Caedwalla*, who fell in battle, is described as *bellicosus juvenis*, which is translated by the words “*hevatesta fyrd esne*”^c.

The person of an *esne* was protected by the law,

habeat in juramento alium fidejussorem bonum, vel solvat, vel tradat se ad flagellandum. Ll. Wiht. Wilk. 12.

^a *Ecclesiasticum cognoscendi jus autem est, cum quis episcopi vel regis servum (esne) accusat, ad manum præpositi eum ducat; præpositus autem aut purget, aut tradat ad cædendum. Ll. Wiht. Wilk. 12.*

^b *Si quis cum servi (esne) uxore concubuerit, viri marito (ceorle) bis emendet. Ll. Æthelb. 84. Wilk. 7.*

^c *Bede. lib. 2. c. 20. p. 521.*

for if any man bound him, a fine of six shillings was inflicted^a. If the esne of a spiritual person accused one of a layman, or the esne of a layman accused one of a spiritual person, the lord was to discharge him upon his own oath^b.

The title of esne seems to have fallen into disuse in the latter period of the Anglo-Saxon history, for it seldom, if ever occurs in any laws of a subsequent date to the reign of Ina. Most of the offences for which the esnes were to be punished appear to have been of a nature which could be committed only by domestic or working slaves. Thus by the laws of Wihtred, if an esne, contrary to the command of his master, did servile work between the setting of the sun on Saturday night and its setting on Monday evening, he was to pay eighty shillings to his master. If he did this without the command of his master, he was to pay to him six shillings, or be whipped^c.

^a *Si quis servum alicujus (mannes esne) vinxerit, vi solidos emendet. Ll. Æthelb. 87. Wilk. 7.*

^b *Si plebeii servus (folces mannus esne), servum (esne), clerici accuset, vel servus (esne) clerici servum (esne) plebeii accuset, dominus (dryhton) ipsius eum proprio suo juramento purget. Ll. Wiht. Wilk. 12.*

^c *Si servus (esne) contra mandatum domini (dryhtnes) opus servile (theow weorc) præstiterit, a vigilia diei solis post occasum ejus, usque ad occasum vespere diei Lunæ,*

To an esne, therefore, I refer the entry in Dooms-day-book, that at Chester, if a male or female slave shall do any work on the day of the fair, the bishop shall have four shillings ^a. By the laws of Ælthelstan, while the person of an esne was protected by inflicting the payment of his full value for the loss of an eye and a foot ^b, provision was made for the punishment of his crimes, and if he killed an innocent person, he was to compensate with all that he was worth ^c, which implies that he might be possessed of property. In the reign of Hlothaire and Eadric laws were made, which, in case an esne was guilty of homicide, imposed a heavy mulct upon his owner, proportioned to the rank of the person killed ^d. By the laws of Ina, if a

LXXX solidos illud domino (dryhtne) compenset. Ll. Wiht. Wilk. 11.

Si servus (esne) hoc faciat proprio motu, sex (solidos) ipse domino (dryhtne) pendat aut cutem suam (sine hyd). Wilk. 11.

^a *Ep̄s de Cestre h̄t in ipsa civitate has consuetudines. Si quis liber hō facit opā in die feriatō inde ep̄s h̄t VIII solid'. De servo autem, vel ancilla feriatum diem infringentem h̄t ep̄s IIII solid'. D. 263.*

^b *Si servi (esne) oculus et pes excutiatu omni valore compensetur. Ll. Æthelst. 86. Wilk. 7.*

^c *Si servus (esne) alterum occiderit innocentem omnibus facultatibus compenset. Ll. Æthelb. 85. Wilk. 7.*

^d 1. *Si cujusquam servus (esne) nobilem (eorlcundne mannan) occiderit, sit trecentorum solidorum compensatio,*

sword was lent to another man's esne, and he lost it, he was to pay one-third of its value ; if a spear, he was to pay a half ; but if a horse, he was to pay the full value. Here it is probable that the esne was a slave or menial attendant in the household of the person for whom he received the sword, spear, or horse^a. It is to be remarked that the title to this law states it to relate to a theow, but the law itself mentions only an esne ; whence arises an argument, if the title might be presumed to be of equal authority and antiquity as the body of the law, to shew either that the two words were synonymous, or that "theow" was

dominus (se agend) homicidam illum tradat, et huic addat trium hominum valorem.

2. *Si homicida evaserit quartum viri valorem adjiciat, et ipse manifesté cum veris juramentis, quod homicidam illum tenere non potuerit.*

3. *Si alicujus servus (esne) hominem liberum occiderit, tunc sit c solidorum compensatio : dominus (se agend) homicidam tradat, et adjiciat aliud viri pretium.*

4. *Si homicida evaserit, duplici viri pretio compensetur, et ipse manifestet cum veris juramentis, quod homicidam illum tenere non potuerit. Ll. Hloth. & Eadric. Wilk. 7, 8.*

^a *De eo, qui alterius servo (othes theowe) gladium mutuo det. Si gladius mutuo detur alterius servo (othes esne), et ille perdat eum, compenset tertiam ejus partem. Si hasta solvat dimidium. Si quis equum mutuo det totum illi compenset. Ll. Inæ. 29. Wilk. 19.*

the generic, “esne” the specific denomination of slaves.

Among the different names given to slaves in the Anglo-Saxon language, it is necessary to mention the word “thræl,” which in the laws of Æthelred is used in contradistinction to freeman. If an English thræl killed a Dane, he was to pay a pound, and a similar penalty was paid by a Dane who killed an English thræl^a.

That there were great numbers of persons of servile condition among the Anglo-Saxons cannot be disputed. We have, in this respect, the uniform concurrent testimony of historians of all ages, confirmed by numerous ancient documents, but the meaning of the word *servus* in Latin, and “theow” in Saxon, may still admit of dispute. If they comprehended all persons annexed to the soil of the lord, as well as slaves properly so called, the numbers, which are occasionally mentioned by historians or in ancient charters,

^a *Si Anglus Danum occidat, liber liberum compenset eum cum xxv libris, nisi se dedat homicida, et Danus idem faciat Anglo, si eum occidat. Si Anglus servum (thræl) Danum occidat, compenset eum libra, et Danus Anglum eodem modo si ipsum occidat. Si octo viri occidantur, tunc pax est violata intra curiam, vel extra (binnam byrig oththon buton) minus octo viri compensentur integra æstimatione capitis (were). Ll. Æthelr. 5. Wilk. 105.*

great as they seem to be at first sight, may be easily accounted for, but if villans, bordars and cotters are to be excluded, the number remaining will by no means be sufficient. In Domesday-book, villans, bordars and cotters are mentioned in each manor under a distinct head, and slaves are enumerated separately. They are generally placed by themselves, or the freedmen (where there are any) with them, and their number, as may be seen in the notes to this work, bear only a small proportion to the general population of the country, or even to the villans, bordars and cotters.

Some of our readers may be inclined to suspect that the slaves mentioned in Domesday-book were esnes only, i. e. the household and working slaves, but it would not be easy to reconcile this conjecture to some passages which will be cited hereafter. In Domesday-book, slaves, though classed as belonging to manors, are never mentioned to hold, or even occupy any land, and for any thing which appears, their lord might transfer their labours from the manors, in which they happened to dwell, to any other, or change the nature of their occupation at his pleasure. Most of them, probably, were employed in the labours of husbandry, but it may be presumed that their strength

and ingenuity were exercised in the more simple and laborious arts of life, and from their being frequently mentioned in connection with mills, the grinding of corn for the use of the lord or his tenants may have been generally intrusted to them ^a. In one place some of them appear to have been potters ^b. In their body we may conclude were enumerated the smiths, carpenters, and other handicraft men, who would be necessary to the convenient carrying on of husbandry concerns. Among the slaves, to whom Wynfleda by her will gave freedom, was the workman ^c. Besides these there must have been a large body of slaves omitted to be noticed in Domesday-book; I mean those employed about the persons, houses, and families of their masters. Wynfleda in her will mentions Ælfsige, her cook, as one of her slaves.

In the slaves mentioned in Domesday-book we may perhaps trace the origin of a humble race, afterwards denominated in our law villans in gross. We know that for some time after the conquest villans were divided into two classes, re-

^a *In dñio est una car̄, et III servi cum uno bord', et dimid' moliñ de VII solid', &c.* D. 43. b.

^b Hersefield.—*Ibi IIII servi, et v figuli (poters) reddt. XLIII den.* D. 168. b.

^c *Hickes. Pref. Gram.*

gardant and in gross : the former were connected with the land, and could not be removed from it, and of this description might be those to whom in Domesday-book is given the name of villans ; the latter were attached to the person of their masters, and might be employed by them, where and how they pleased. As the object was to record only the numbers of such persons as were assisting in the cultivation of the land, or deriving profit from it, all domestic slaves, as well as some others, might be omitted. And though, as has been observed, slaves are not stated to have occupied any land, yet they are always mentioned as connected with certain manors, and placed on their demesnes, which is the precise description of villans in gross. They were bound to labour upon the lands, and in the works allotted to them, till the lord thought fit to give them other employment, and therefore the commissioners who collected the returns properly inserted them as belonging to the manors to which they were affixed. In the larger manors they were distinguished from the villans, bordars and cotters, and placed not upon that part of the demesne which was appropriated to be cultivated by the villans, but, being more immediately under the superintendence of the steward, worked on that part which was kept in the hands

of the lord himself. In the smaller ones they were occasionally mixed with the villans and bordars^a, but sometimes they are found not on the demesne, but on the other parts of the estate^b, and an instance occurs of their being employed to take care of the pasture of villans^c.

The political situation of slaves, in the most extensive sense of the word, whether predial, domestic, or of any other denomination, may be described in a few words. In general they,

^a *Ibi sunt in dñio cum viii bord', et v servis, et v acspti.* D. 43.

In dñio est dim car cum ii bord', et un servus. D. 60.

In dñio est una (car), et unus vills cum ii bord' habet i car, et ibi un servus. D. 126.

In dñio sunt iii car, et x villi cum pbro, et i bord' cum v car. Ibi xi servi. D. 168.

Terra est una carucata. In dominio est una caruca, et vi bordarii, et iv servi cum ii carucis et dimidia. Hampsh. 278.

In dñio sunt ii car et pbr, et i vills, et ii servi sine car. D. 167. b.

Becles.—Semper ii vill', et xxvi bord'. Tc ii serv—et i mercatum, xxvi burgenses, et abbas ht iii partes de mercato. 2 D. 369. b.

^b *Trā est i car. Ipsa est cum ii servis.* D. 259. b.

Trā ē vi bou, qui ibi st arantes, et i cotar, et uno servo. D. 71.

In dominio sunt ii car, et xiii vill', et xxxi bord', cum v car. Ibi æcclā, et ix servi p pastura septim porc villorum. D. 36. b.

with their wives and children, were the property of their masters. They were classed and valued, and disposed of, exactly as the cattle upon the estates to which they belonged ^a, and were bought and sold, and transferred ^b and

^a *Dederunt etiam pecuniam pro pecunia: superabundabant tamen apud Holande c oves, et LV porcos, et duo homines, et v boves subjugales. Hist. Eccl. 3 Gale. 481.*

Si cum maritata uxore concumbat, si sit coloni, sexaginta solidis compenset ei ad quem pertinet, et hoc in viventi possessione pecunia componatur, et nullus homo propterea vendatur. Ll. Ælf. 18. Wilk. 39.

^b A grant was made, 987, by Oswald, archbishop, of lands for two lives, and then to return to the church of Worcester, *sine detrimento omnium rerum ad se pertinentium, hominum, vel pecorum, seu ciborum, &c. 1 Hem. 166.*

Many instances of men being purchased are collected in *Hickes. Diss. Ep. 22.* But because men were sold as *adscriptitii glebæ*, along with the demesnes, it does not follow that they were slaves. In the following grant of specific numbers of *manentes* upon different manors, it appears that they were free, for they held lands for which they did service, by the payment of such sums as were due to their lord, and by attending all expeditions:—

Offa, king of the Mercians, granted to the see of Worcester, at the prayer of bishop Tilhere, the royal vill of Croppethorne and its members, &c. *Ad Croppethorne VII manentes, ad Neotheretune I, æt Elmlege II, æt Criddesho I, æt Ceorlestune XIII, æt Heantune XV, æt Benincryrthe X. Que in unum collecto sunt L manentes.—Eodem namque anno predictus episcopus ad Bregantforde venit, et licentiam a me quesivit ut medietatem viculorum supra scriptorum scilicet XXV manentes, parentibus suis tribuere posset,*

devised ^a, whether separated from, or connected with land, in the same manner as any other property or chattels.

It has been observed before that slaves were very numerous ; probably few families, and fewer estates were without some. We read that 250 men, including esnes and females, were on the lands given by Ædilvalch to Wilfrid, in the year

et ego, principum meorum consensu, petitioni episcopi ipsius consensi, eo tenore, ut quisquis habuerit aliquem ex ipsis viculis, venerabili episcopi Tilhere omnibus que suis successoribus servitium faciat in vectigalibus et expeditionibus omnibus, que aliis subjectionibus qualescunque episcopus ipse suive successores mihi meisque successoribus persolvere debuerint. Si vero aliquis ex ipsis hominibus deliquerit vel de patria in exilium missus fuerit vel alio aliquo modo de honore pulsus fuerit terra ipsa, sine omni refragatione antique ecclesiæ in Wireceast re restituatur, &c. 1. Hem. Chartul. 95.

Tilhere was made the seventh bishop of Worcester in A. D. 742. 1 Mon. 120.

^a Wulfgar devised to Ælfere, abbot, the lands at Ferscesford, with the provisions, and with the men, and with all the produce as it was cultivated. *Hickes. Diss. Ep. 54.*

Bishop Ælfric, by will, devised in Saxon *et decem boves cum duobus hominibus* (two mon). *Ibid. 62.*

Wynfleda gives to her daughter Æthelflæde the land at Ebbelesburn, and those men, the property (thara manna & thæs yrfes), and all that thereon be. Afterwards she gives to Eadmer *as much property and as many men* (Eadpolde swa micel yrfe & swa fela manna swa, &c.) as to him had been bequeathed at Hafene. Pref. to Hickes' Gram.

678^a; and if further proof is wished for, we may refer to the notes to this chapter.

The predial slaves enumerated in Doomsday-book, with their wives and children, were *adscriptitii glebæ*, and could not remove from the demesnes to which they belonged without the consent of their lords. There they were forced to remain, and there they wore out their lives in labouring for the profit of their masters. The bulk of them were slaves by birth, but their numbers might be occasionally increased in the

^a In the year 678, the South Saxons, with Ædilvalch their king, were converted to the christian faith by Uilfrid, who had been expelled from the archbishopric of York. Ædilvalch gave him eighty-seven hides of land, on which he erected a monastery. *Et quoniam illi rex cum præfata loci possessione omnes qui ibidem erant, facultates cum agris et hominibus (mid londe and mid monnum) donavit, omnes fide Christi institutos unda baptismatis abluit, inter quos, servos et ancillas (monna esna and mennena) ducentos quinquaginta; quos omnes ut baptizando a servitute dæmonica salvavit, etiam libertate donando humanæ jugo servitutis absolvit. Bed. Hist. Eccl. lib. 4. c. 13.*

In Doomsday-book, in the county of Sussex, on a cursory examination there appear to be 9,200 male slaves, whence, as women and children do not appear to have been taken into the computation, their whole number may be taken at 50,000; and the free persons were less than 40,000, or about 38,000. So the population about the year 1086 might be three-fifths of the population returned to government in 1801, which was 159,311. Hist. of Chichester. 184.

different modes which have been already adverted to in this chapter. Probably the Saxon christians made no scruple to take in war, or to purchase pagan slaves, and employ them in the cultivation of their lands, or in the lowest and most laborious services in and about their households. But Ælfred made a great alteration in the situation of christian slaves, for he enacted that, if one of this description was purchased, he might be compelled to serve for six years, but in the seventh he should be free. With such clothing as he had when he was bought he was permitted to depart, and if he brought with him a wife, she was to accompany him. If his lord had given him a wife while he continued in service, she and their children remained with the lord, but if the slave did not chuse to be separated from his wife, children, and inheritance, the lord was authorized to take him to the door of the church, and bore his ear with an awl, as a mark that for ever afterwards he should be a slave ^a.

^a *Si quis emat christianum servum, sex annos serviat, septimo sit liber gratis. Cum quali vestimento intrat, cum tali exeat, si ipse uxorem habeat exeat cum eo. Si dominus autem illi uxorem dederit, sit ipsa et liberi ejus domini. Si servus autem dixerit, nolo abire a domino meo, nec ab uxore mea, nec a liberis meis nec ab hæreditate mea (fram minum yrfe) tunc dominus ejus ipsum ad templi ostium adducat, et*

Another instance of temporary slavery has been mentioned, for it was in the power of a father, being free, to sell his son into slavery for seven years, to relieve himself, in case of extreme poverty and distress ^a.

The wite theows ^b may be also reckoned among the temporary slaves, for their relations had at any time the power to redeem them by the payment of the regulated penalties. In like manner prisoners of war, in most cases at least, might ransom themselves by paying such sums of money

perforet aurem illius subula, in signum, quod sit semper in posterum servus. Ll. Ælf. Ecc. 11. Wilk. 28.

^a *Ante*, p. 360. The *servi testamentales* mentioned by Du Cange and others might include slaves of this description. The 35th of a code of laws of Æthelstan, not in Wilkins' collection, has this passage : *Et secundum dictionem, et per mensuram suam convenit, ut servi testamentales operentur super omnem scyram cui præest. Du Cange. Servi.* The word *testamentum* was applied to a written instrument solemnly executed in a public assembly of the people, and to which the persons met together were called upon to bear witness, and was known to the inhabitants of the continent as well as of this island.

Si quis alteri aliquid vendiderit et emptor testamentum venditionis accipere voluerit, in mallo hoc facere debet, et pretium in præsentem tradat, et rem accipiat, et testamentum publice conscribatur. Lex Ripuar. c. 59. s. 1. Lind. 462. See also c. 3. p. 463.

^b *Ante*, p. 362,

as their masters and they or their friends could agree upon. That persons of high rank were sometimes reduced by the chance of war to this miserable state, we have seen in the instance of Imma, who, having filled the most honourable situations about his sovereign and his family, was treated with indignity, and actually put into bonds, from which he was miraculously released ^a. And bishop Lupus, when describing the outrages of the Danes, and the pusillanimity of the English, stated that thanes not only were compelled to witness the most violent outrages committed upon their wives, daughters, and female relations, but were bound by those who had been before their own thræls, and sent into slavery ^b.

^a *Ante*, p. 364.

^b *Et Anglia jam diu sine victoria et iracundia Dei perculsa admodum et prostrata. Piratæ etiam Dei præsidio ita strenui evadunt, ut in pugna unus sæpe decem in fugam egeret nunc plures, nunc vero fortasse pauciores. Creberrime autem decem aut duodecim alternis vicibus uxorem thayni vitiant, et cum ejusdem filia aut cognata gravissima contumelia eam afficiunt. Spectatore quidem ipso nec prohibente, qui animosus et ditissimus, atque olim satis visus esset strenuus. Servus (thræl) etiam sæpenumero, qui ipsius quondam herus (hlaford) fuerat thaynum arcte perstringit, et ad servitutem offenso Deo, miserum adigit. Sermo Lupi ad Anglos. Hick. Diss. Ep. 103.* It may be remarked here that the word "thræl" is used to designate, if not a slave, a low person, whose lord the thane had been.

Before the Norman conquest the sale of slaves made a considerable branch of commerce. Imma, when taken in war, was, as we have mentioned before ^a, sold in London to a Frisian. And at the burg of Lewes the tolls payable to the gerefa on the sale of every man bought within the rape, was regulated as it was on the sale of a horse or an ox ; on the latter was paid a farthing, on the former four-pence ^b. That a similar toll was taken in other places appears from several contracts mentioned by Hickes. In one, Gesfrægfeala redeemed for ten shillings Gidithe, daughter of Edwig, from Alpsta of Wunford and from Hrælepincenne, free and sacless out of Wunford, and Gyldeberd the port-gerefa took the toll for the king ^c. Ediwic, the widow of Sawgels, bought Gladu at Colewin for half a pound and the toll, and Alword the port-gerefa took the toll ^d. There was nothing disgraceful in this kind of traffic, for Geth, the sister of king Cnute, and the first wife

^a *Ante*, p. 365.

^b *Qui in burgo (Lewes) vendid' equum dat̃ preposito numū, et qui emit alium de bove obolum, de homine 1v denar̃ quocunque loco emat infra rapum.* D. 26.

^c *Hickes. Diss. Epist.* 15.

^d Appendix to Lye's Saxon Dictionary. *Hickes. Diss. Ep.* 12.

of Godwin earl of Kent, greatly enriched herself by selling English slaves into Denmark ^a.

Bede relates that pope Gregory saw Northumbrian slaves exposed to sale in the markets of Rome ^b. Strabo also mentions British slaves

^a Bicknell's Alfred. 367. Tyrrell. b. 6. p. 85.

^b *Nec silentio prætereunda opinio, quæ de beato Gregorio traditione majorum ad nos usque perlata est: qua videlicet ex causa admonitus, tam sedulam erga salutem nostræ gentis curam gesserit. Dicunt, quia die quadam cum advenientibus nuper mercatoribus multa venalia in forum fuissent conlata, multique ad emendum confluxissent, et ipsum Gregorium inter alios advenisse et videsse inter alia pueros venales positos, candidi corporis, ac venusti vultus, capillorum quoque forma egregia. Quos cum aspiceret, interrogavit, ut aiunt de qua regione vel terra essent adlati, dictumque est quod de Britannia insula, cujus incolæ talis essent aspectus. Rursus interrogavit utrum eidem insulani, christiani, an paganis adhuc erroribus essent implicati. Dictumque est quod essent pagani. At ille intimo ex corde longa trahens suspiria, "Heu, proh dolor!" inquit, "quod tam lucidi vultus homines tenebrarum auctor possidet, tantaque gratia frontispicii mentem ab interna gratia vacuum gestat!" Rursus ergo interrogavit quod esset vocabulum gentis illius. Responsum est quod Angli vocarentur. At ille "Bene," inquit; "nam et angelicam habent faciem, et tales angelorum in cælis decet esse coheredes. Quod habet nomen ipsa provincia de qua isti sunt adlati?" Responsum est quod Deiri vocarentur idem provinciales. At ille: "Bene," inquit, "Deiri, de ira eruti, et ad miserecordiam Christi vocati. Rex provinciæ illius quomodo appellatur?" Responsum est quod Aella diceretur. At ille, alludens ad nomen, ait "Alleluia, laudem Dei*

among the British exports in his time ^a. William of Malmsbury, in his life of bishop Wulfstan, applauds him for having cured the inhabitants of Bristol of a most odious and inveterate custom, which they had derived from their ancestors, of buying men and women in all parts of England, and exporting them to Ireland for the sake of gain. They were exposed to sale in long ranks of young persons of both sexes, tied together with ropes. And they were not ashamed to give up their nearest relations, and even their own children, to slavery. The pious and humane bishop was indefatigable in his exertions, frequently spending two or three months at a time among them, and at last prevailed upon them to abandon this wicked trade, and set an example to all the rest of England to do the same ^b.

Creatoris illis in partibus oportet cantari." Bedæ. Hist. Eccles. lib. 2. c. 1. p. 78.

Saint Gregory the great was elected pope on the 3d September A. D. 590, according to Du Fresnoy, and Bede mentions that the above conversation took place before he possessed that dignity.

^a Strabo, lib. 4. 199, 200.

^b *Vicus est maritimus Brichstou dictus, a quo recto cursu in Hiberniam transmittitur, ideoque illius terræ barbari accommodus. Hujus indigentiæ cum cæteris ex Angliâ causâ mercimonii sæpe in Hiberniam annavigant. Ab his Wlfstanus*

The benevolent spirit of christianity, much to the honour of the ecclesiastics, was most actively exerted among the Anglo-Saxons in mitigating the wretchedness, and diminishing the numbers of these unfortunate beings. And we have adverted to a law made by the generous Ælfred, that a christian slave, being purchased, should serve only six years, but in the seventh should have his freedom^a.

morem vetustissimum sustulit, qui sic animos eorum occalluerat, ut nec Dei amor, nec regis Willelmi hactenus eum abolere potuissent. Homines enim ex omni Anglia coemptos majoris spe quæstus in Hiberniam distrahebant; ancillasque prius ludibrio lecti habitas jamque prægnantes venum proponebant. Videres et gemeres concatenatos funibus miserorum ordines, et utriusque sexûs adolescentes; qui liberali forma, ætate integrâ barbaris miserationi essent cotidie prostitui, cotidie venditari. Facinus execrandum, dedecus miserabile, nec belluini affectus memores homines, necessitudines suas, ipsum postremo sanguinem suum servituti addicere. Hunc tam inveteratum morem, et a proavis in nepotes transfusum Wlfstanus, ut dixi, paulatim delevit. Sciens enim cervicositatem eorum non facile flecti, sæpe circa eos duobus mensibus, sæpe tribus mansitabat: omni dominica eo veniens, et divinæ prædicationis semina spargens. Quæ adeo per intervalla temporum apud eos convaluere, ut non solum renuntiarent vitio, sed ad idem faciendum cæteris per Angliam essent exemplo. Denique unum ex suo numero, qui pertinacius obviaret præceptis episcopi, vico ejectum, mox luminibus orbavere. In qua re devotionem laudo, sed factum improbo; quamvis semel vitiatis agrestium animis nulla queat obsistere vis rationis. 2 Ang. Sacra. 258.

^a Ante, p. 381.

If any person, having purchased one of his own countrymen, whether free or servile, and whether charged with having committed any crime or not, sent him beyond the sea, he paid not only his were, but was also to make satisfaction to God^a. The transportation beyond the sea of a purchased slave was forbidden, probably from motives of religion, for the Jews were the principal dealers in slaves, and sold them chiefly among the Saracens of Spain and Africa^b. The selling of christian slaves beyond the sea, and to pagans, was also prohibited by several canons and ecclesiastical constitutions quoted in the note below^c, but the

^a *Ante*, p. 338, note ^b.

^b 2 *Muratori Antiq.* 883.

^c *Si quis christianum ad ethniciscum (on hæthendom) vendat, non sit dignus aliqua requie cum christianis, nisi ipsum deinde domum redimerit, contra quam vendiderit foris; et si hoc facere nequit, dividatur pretium illud totum Dei gratia, et alium reddat alio pretio, et eum tunc dimittat, et adhæc augeat compensationem tres annos integros, sicuti confessarius illum docet. Et si pecuniam non habeat quæ hominem redimere posset, compenset gravius, hoc est, septem annos integros, et lugeat semper. Canones Eadgari. Wilk. 93.*

Sapientium decretum etiam est, ut christiani et innocentes extra patriam non vendantur, neque saltem in pagani servitium, sed caveant diligenter, ne anima perdatur, quam Christus propria sua vita redemit. Concel. Ænham. Wilk. 120.

Nostri domini et sapientium ejus constitutio etiam est, ut christiani et innocentes non vendantur de terra necque saltem

necessity for the interference of bishop Wulfstan to put a stop to the traffic in slaves, is a strong proof of the inefficacy of legislative provisions when opposed to the gratification of the selfish passions.

As it was permitted to slaves to have wives and families, there must have been great numbers of female slaves; these in Latin were called *ancillæ*. They are mentioned not unfrequently in Doomsday book, and generally in the same class with the *servi*^a: They were employed chiefly in services about the household and family of their masters, and attended to many of those duties which in modern times are generally performed by men. From the laws of Æthelbirth we learn that female slaves were divided into three classes; and whoever lay with the king's maiden was to pay a fine of fifty shillings, she being, as we may presume, of the highest rank; if he lay with a

ad paganismum (on hæthene leode) ducantur, sed sedulo custodiantur, ne anima negligatur, quam Christus propria sua vñta redemit. Domini nostri et sapientium ejus constitutio etiam est, ut christiani ante omnia pro parvis rebus ad mortem non condemnentur, sed potius parentur pacificæ correctiones ad necessitatem populi, nec perdatur pro parvo opus manuum Dei, et propria ejus possessio, quam caro emit. Liber. Const. Wilk. 107.

^a *Ibi VI servi, et III ancillæ. D. 166. b.*

Ibi inter servos, et ancill'. D. 168. b.

grinding slave, twenty-five shillings ; and if with one of the third class, only twelve. But the chastity of the king's purveyor or caterer was protected by a fine of twenty shillings. He who lay with the cupbearer of an earl was mulcted in twelve shillings, and for a similar offence with the cupbearer of a ceorl the fine was six shillings ; and he who lay with the slave of a ceorl of the next class paid fifty scættas, but if she was of the third class, only thirty scættas^a. The value of a scætta is supposed to have been at first only a farthing, but afterwards a penny.

The domestic happiness of persons of servile condition was not entirely forgotten by the law.

^a 10. *Si quis cum regis ancilla virgine (mægden) concubuerit* L solidis emendat.

11. *Si ea molens serva (grindende theowa) sit, XXV solidis emendat, si ea tertiæ sortis, XII solidis.*

12. *Regis obsonatrix (fedesl) XX solidis compensetur.*

14. *Si cum comitis pocillatrice (birele^{*}) quis concubuerit* XII solidis compenset.

16. *Si cum plebei pocillatrice (ceorles birelan) quis concubuerit* VI solidis emendat, *pro alia serva* L scættas, *pro tertiæ sortis* XXX scættas solvat. *Ll. Æthelb. Wilk. 3.*

^{*} I do not find the word " birele " in Lye's Saxon Dictionary, and the word *pocillatrice*, which Wilkins introduces as its Latin substitute, being derived from *pocillum*, a little cup, may imply inferiority in the person described. The cupbearer of an earl was a person of high dignity, and a humble female attendant, whose duty it might be to clean the cups, was perhaps meant to be described here.

If any man lay with the wife of an *esne*, while the husband was alive, he paid a double fine^a. And if a master of a female slave, being married, lay with her, he lost her, (probably meaning that she should be set at liberty,) and he was, besides, to pay such penalties as were imposed by the ecclesiastical and municipal laws^b.

The situation of female slaves, however, must have been most wretched, for we may presume that they were treated with great barbarity and violence. By a law of *Æthelbirht*, whoever carried off a virgin by force was to pay to her master fifty shillings, and afterwards as much money as he might insist upon for her purchase^c. That a virgin might be purchased for a valuable consideration was expressly enacted by the same laws, but if there was any fraud in the bargain,

^a 84. *Si quis cum servi (esne) uxore concubuerit, vivo marito, emendet. Ll. Æthelb. Wilk. 7.*

^b *Si vir uxoratus coeat cum propria sua ancilla (wylne), perdat eam et pro ipsa compenset apud Deum, et apud homines. Ll. Cnuti. 51. Wilk. 142.*

Prohibemus etiam, ne christianus quisquam procul de terra vendatur, neque at gentilismum (hæthendome) saltem perducatur, sed diligenter foveatur, ne anima perdatur, quam Christus propria sua vita redemit. Ll. Cnuti. 3. Wilk. 134.

^c *Si quis virginem per vim ceperit, possessori L solidos det, et postea secundum possessoris voluntatem eam redimat. Ll. Æthelb. 81. Wilk. 7.*

she was to be brought home again, and the purchaser was to have back what he had given ^a.

Unmarried female slaves did not escape the attention of the benevolent Alfred. By his laws, if any one sold his daughter into slavery, she was not a slave to the utmost extent that other women were. Her master had not the power of selling her to foreign people, but if he was not pleased with her, he might give her freedom, and then send her among foreigners. If he permitted his son to lie with her, it was his duty to see that his son gave her clothing and a portion, and in default she became free ^b. Hence we infer that the persons of female slaves were at the disposition of their masters, and, from a law of Ælfred, before cited ^c, that they might give them in

^a *Si vir (man) virginem mercetur pretio, emptā sit, si sine dolo factum sit : si autem dolus sub est, postea domum reducit, et illi peculium suum reddatur. Ll. Æthelb. 76. Wilk. 7.*

^b *Licet quis vendiderit filiam suam in famulatam (to theowonne), non sit serva in omnibus, uti alicæ famulæ (othru menenu). Non habeat potestatem eam extraneo populo vendendi, sed si illa non placeat ei, qui ipsam emit dimittatur eam liberam ad extraneam gentem. Si autem permiserit filio suo rem cum ea habere, det ei donum, videat ut illa habeat vestitum, et pretium pudicitiae ejus, hoc est dotem ei suam largiatur. Si ei nihil horum præstiterit, tunc sit libera. Ll. Ælfr. 12. Wilk. 29.*

^c *Ante, p. 381, note ^a.*

marriage to any of the slaves on their estates; in neither case the consent of the female seems to have been thought necessary. By another law of Ælfred, if the female slave of a ceorl was violated, the offender paid five shillings to the ceorl, and sixty shillings for a wite. If a slave violated a female slave, he was punished by mutilation^a. If a male or female slave received a blow upon the eye from his or her master, and in consequence lost the use of it, he was obliged to give freedom to the sufferer immediately^b, or if either a male or female slave was gored with the horn of an ox, the owner was to pay to the master of the slave thirty shillings in silver, and the ox was to be stoned^c. The passage from William of Malmsbury, copied in the following page, gives a shocking picture of the cruelty and profligacy of the Saxons about the time of the Norman conquest, with whom it was a common practice for masters, after the gratification of their lust

^a *Ante*, p. 343, note ^c.

^b *Si quis servi sui vel ancillæ suæ* (his theowe, oththe his theowenne) *oculum excusserit, et ille post factum hoc luscus sit, manumittat ipsum statim. Si dentem ei excusserit, faciat idem. Ll. Ælfr. 20. Wilk. 30.*

^c *Si autem servum vel ancillam confoderit (sc. bos cornu), solvat domino xxx solidos argenti, et bos lapidibus obruatur. Ll. Ælfr. 21. Wilk. 30.*

with their female slaves, to sell them either for public prostitution, or into perpetual slavery^a.

Notwithstanding the abject condition of slaves, as before mentioned, it must be remarked that those connected with the cultivation of the lord's demesnes are at some times described in such a manner, and at other times stated to enjoy such privileges, that it is doubtful almost whether they ought not to be ranked among freemen. Tacitus remarks that the slaves of the Germans, in his time, were not, according to the custom of the Romans, employed in domestic concerns, but each had his own residence, and his own household gods. His lord exacted from him a moderate quantity of corn, cattle, or clothing, and his wife and children were employed about the house of the lord. To whip a slave, or to bind him, or compel him to work, were occurrences which rarely happened, but they were frequently killed, not from severity, but in anger. Freedmen were not much superior to slaves; they seldom were of any consequence in a house, never in a city, except indeed among those people whom

^a Alluding to the manners of the English before the conquest, he says, *Illud erat a natura abhorrens, quod multi ancillas suas ex se gravidas, ubi libidinem satisfacissent, aut ad publicum prostibulum, aut ad eternum obsequium vendicabant.* Will. Malms. 57. See also ante, p. 386, note ^b.

they governed, for then they were exalted not only above freemen, but above nobles^a.

Slaves, among the Anglo-Saxons, might possess both real and personal property; their inheritances are mentioned in a law of Ælfred, quoted in a former page^b, as well as in others. They are not only recognized as possessing personal property^c, but were protected in that possession,

^a *Ceterum servis, non in nostrum morem descriptis per familiam ministeriis, utuntur. Suam quisque sedem, suos penates regit. Frumenti modum dominus aut pecoris, aut vestis, ut colono injungit, et servus hactenus paret. Cetera domus officia uxor ac liberi exsequuntur. Verberare servum, ac vinculis et opere coercere rarum. Occidere solent, non disciplina et severitate, sed impetu et ira, ut inimicum, nisi quod impune. Liberti non multum supra servos sunt, raro aliquod momentum in domo, nunquam in civitate, exceptis duntaxat iis gentibus, quæ regnantur. Ibi enim, et super ingenuos, et super nobiles ascendunt, apud ceteros impares libertini libertatis argumentum sunt. Tac. de mor. Germ. 24, 25.*

^b *Ante, p. 381.*

^c William the conqueror granted to the abbey of Croyland, in order that it might erect a cell at Spalding, his manor near the parish church of that place, and then *Collegrinum præpositum meum et totam sequelam suam cum omnibus bonis, et catallis quæ habet in dicta villa, et in campis ejus, et mariscis absque aliquo de omnibus retinemento*; and then several others are described in nearly the same words; among them a smith, a fisherman, and a miller. The grant concludes, *Istos servos meos, et omnia bona et catalla eorum, cum omnibus cotagiis quondam meis, situatis in orientali parte fluminis, &c. Ingulph. 519. 519. b.*

for a theft committed upon a slave was punished in the laws of Æthelbirth by a fine of three shillings^a. They are mentioned as purchasing different articles^b, and, what may be thought rather extraordinary, as paying to their masters large sums of money for the manumission of themselves, their wives and children. Elfwid the red bought his own liberty for one pound, Leofenoth paid five ors and twelve sheep for the liberty of himself and his offspring, and Ægelsig bought that of his son for sixty pennies. Godwin the pale freed himself, his wife and children, for fifteen shillings; and Brightmær, his wife Ælgyfu, their children and grand-children, for two pounds^c. Grants of land also, made by masters to their slaves, were not uncommon.

These circumstances must be admitted to be not easily reconcilable with the quotation just made from Ingulphus, in which the slave of William the conqueror, though elevated to the situation of a *prepositus* or steward, was conveyed to

^a *Qui bona emit præsentibus testibus, et ea deinde quis sua esse contendat, tunc recipiat ea (venditor) qui illa prius emerat, sive sit servus, sive liber, sive quicumque alius sit. Ll. Æthelb. 24. Wilk. 61.*

^b *Servi (theowæs) latrocinium sit III solidi. Ll. Æthelb. 88. Wilk. 7.*

^c Appendix to Lye's Saxon Dictionary.

the abbey of Croyland with his sequels, along with the goods and cattle he possessed within the manor, as the property of his royal master. In fact, the indulgence of their masters, encouraged by the holy zeal of the ecclesiastics, and the humane spirit of the laws, meliorated the condition of the slaves, and occasionally raised them above their rank to what might be deemed wealth and influence.

It seems that it was not uncommon for pious persons to make eleemosinary gifts to their slaves, for bishop Lupus, in his address to the English, in the reign of Æthelred, describing the horrid ravages of the Danes, complained that even the slaves were not allowed to enjoy the things which good and holy men had granted to them, but they were in general detained from them, either in the whole or in part^a.

The slave of the king who had men under him, in case one of those men stole any thing, was obliged to pay half a pound, but if his value was

^a *Mancipiis vero, quæ diuturna sui temporis usura, laboriose et difficulter sint consecuti, iis frui plane non permissum est, neque vero iis quæ probi sanctique homines religiosissime donarunt et in donum eleemosynæ concesserunt, quolibet ferme homine id aut diminuente aut detinente, quod Dei causa juste, et studiose iis debet præstare. Sermo Lupi ad Anglos. Hick. Diss. Ep. 101.*

enhanced beyond that of an ordinary person, the penalty was also increased, and to be paid even to the last farthing. If he fled, he was to be paid for according to the value set upon him, and if he was taken, he was to suffer the usual punishment of a slave who had committed theft, or to be hanged. The price of the thing stolen was to be increased from thirty pence to half a pound, and above that the penalty was enhanced as mentioned in the law^a. Here we have king's slaves with "men" under them, and though we should assume that these men were slaves, we have still to account for their acknowledging for their

^a *Diximus etiam de nostris ministris (urum theowum mannum) qui servum (men) habeant, si homo ille furetur, ut id compensetur dimidia libra : si autem pretium erigamus, ut apprecietur secundum vultus ejus pretium, et habeamus tunc reliquum, quod antea constituimus. Si et tunc furtum faciat, ut ad lapidandum ducatur, uti antea dictum erat ; et conferat quilibet, qui servum (man) habet, tam denarium quam obolum juxta societatis monitum, prouti pretium illud erigere valeant. Si autem aufugiat, ut compensetur juxta pretium vultus ejus, et nos omnes illum inquiramus ; si eum assequi possumus, fiat ipsi omne id quod servo furi factum est, vel suspendatur. Et pretium rei furto ablatae semper crescat supra xxx denarios usque ad dimidiam libram ; postmodum requiremus illud ulterius, cum pretium illud rei furto ablatae auxerimus per plenam compensationem (fullan angyl-di) ; et inquisitio procedat, uti antea dictum erat, licet parva sit. Jud. Civ. Lund. Wilk. 67.*

masters persons in the same humble situation with themselves. Some of my readers may be inclined to suspect that the word "theow" had various senses, and that those alluded to here must be exalted above the condition of common slaves. This suspicion may receive some confirmation from a reference to a law of Wihtred, quoted before^a, for there slaves, in the natural construction of the sentence, are mentioned in such a manner as to include servants generally, whether free or servile.

A slave, however, having no permanent property in land, or none which in contemplation of law his master might not deprive him of at any moment, could never be considered as the tenant of land, and the provisions for the security of the houses and curtelages of ceorls or freemen could have no reference to him.

Slaves were not permitted to carry the same arms as freemen^b, for when a slave was made free, it was by the laws of William the conqueror required that his master should put into his hands the arms appropriated to the use of freemen, viz. a spear and a sword^c. These laws were con-

^a *Ante*, p. 331, note ^c.

^b *Muratori Antiq. lib. 2*, p. 445.

^c *Wilk.* 229.

firmed by those of Henry the first, with this addition, that the manumitted slave should give up the arms usually borne by persons of servile condition, described by the Latin words *billum vel strublum*^a. The word *billum*, upon the authority of Du Cange, we may translate “a billet of wood,” but *strublum* is found only in this place, and may be put, by mistake of a transcriber, for *stimulum*, a goad, which is mentioned in the 80th law of Henry the first. Du Cange observes that a stick was the only weapon allowed to a slave upon the continent.

Slaves had few rights in common with freemen, and were not permitted to enter into their societies,

^a *Qui servum suum liberat in ecclesia, vel mercato, vel comitatu, vel hundredo coram testibus, et palam faciat, et liberas ei vias, et portas conscribat apertas, et lanceam et gladium, vel quæ liberorum arma sunt, in manibus ei ponat. Si quis in servum transeat, sicut possessor est in Halimoto vel hundredo vel vicinio coram testibus agatur, cum excoluerit ut nec ille deinceps abneget et de singulis discrete sciatur cujus conditionis æstimandi sunt, liberæ sc. an servilis, quia multi potentes volunt si possunt, defendere homines suos modo pro servo, modo pro libero, sicut interim factu facilius sit. Sed legibus hoc interdictum est, in signum vero transitionis hujus billum vel strublum, vel deinceps ad hunc modum servitutis arma suscipiat, et manus in manus domini mittat, et caput. Si quis de servitute redeat in liberum in testem manumissionis cum testibus redditionis domino suo xxx denarios reddat, scilicet pretium corii sui in signum, quod eo dignus sit in æternum. Ll. Hen. 1, c. 78. Wilk. 271.*

or join with them in paying the sums of money which the law required from them, unless it was intended, by allowing them to contribute, to make them free ^a. They were not arranged in tythings, or placed in freeborh, but by the laws of Cnute lords were called upon to govern their slaves justly ^b, and if a lord forced his slave to work upon a feast-day, the slave immediately became free, and among the Danes the lord was bound also to pay a lahslite, among the English a wite ^c.

It frequently happened that a lord, either out of a false sense of honour, or his affection for a particular slave, was not inclined to make inquiry into any charge brought against him. The fear of losing his slave, or being obliged to pay a fine for his delinquency, might also induce a wish to screen him from prosecution. To remedy this evil, a law

^a *Non cogatur liber cum servo cognitionem solvere, nisi velit cum factione liberare. Ll. Inæ. s. 7, 8. Wilk. 16.*

Non cogitur liber cum servo megildare, nisi velit ei natis factionem facere, nec servus cum libero. Ll. Hen. 1. c. 70. Wilk. 265.

^b *Magna etiam cuilibet domino est utilitas ut famulos suos juste gubernet. Ll. Cnut. 20. Wilk. 132.*

^c *Si dominus servos suos die festo necessitet ad laborandum, perdat servum, et sit in posterum liber (folcfryg), et dominus solvat violatæ legis (lahslite) pœnam apud Danos, mulctam (wite) apud Anglos pro ratione ejus, quod factum est, vel purget se. Ll. Cnut. 42. Wilk. 141.*

of Æthelstan provided, that if a lord refused to do justice and took the part of his slave, and thereupon there was an appeal to the king, the lord should forfeit the price of the slave, i. e. his ceapgylde, and to the king 120 shillings. And if a lord knew that his slave had been guilty of theft, and did not disclose it, he lost him, and paid his own were, but if the lord repeated the offence, he forfeited all that he had ^a.

Slaves had no concern in the police of the country, or administration of justice, and if a person seized any stolen goods, he was forbidden to call upon slaves to warrant them ^b. They

^a *Et dominus, qui rectum denegat, et a partibus servi sui mali stat, et tunc ad regem adpellatur, compenset æstimationem emptionis (ceapgylde), et solvat regi cxx solidos. Et si tunc regem requisiverit antequam sibi jus postulet, quoties ad hoc pertinet, solvat quamlibet mulctam, quam alius debuerat, si jus ei deneget. Et dominus, qui servi sui (theowan) furti conscius, et hoc ei manifestum fiat, perdat servum illum, et sit capitis ejus æstimationis reus prima vice. Si sæpius hoc faciat, reus sit omnium, quæ habet. Et quilibet etiam regis Thesaurarius vel præfectus noster (ure gerefera), qui eorum furti conscius fuerit, qui furati sunt, sit eidem obnoxius sententiæ. Ll. Æthelst. 3. Wilk. 56.*

^b *Si quis furtim ablatas merces intercipit non debet advocari ad servos homines (tyman to theowum men). Ll. Inæ. 47. Wilk. 22.* The meaning of this law seems to be, that whoever discovered and seized goods which had been stolen, should not call upon slaves to own, or account for them.

were considered as having no connexion with freemen or the state but through their lords; in a political point of view, they had no family or relations, and therefore, in case any of them was slain, no were was paid by the offender; and if a master killed his own slave he was liable to no fine, because he was the only loser^a. By the laws of Hoel Dda, in case a slave was killed, his price was to be paid to his master exactly as he would have received compensation for any of his cattle or horses which had been destroyed^b. So by the laws of Ælfred, if an ox unfortunately killed a slave with his horns, the penalty inflicted upon the owner was thirty shillings in silver, to be paid to his master, and the ox was to be stoned to death^c.

^a *Si quis hominem suum sine culpa mortis occidat parentibus ejus, sicut natus est, nihilominus eum reddat, quia videlicet ad serviendum, non ad occidendum servus erat. Qui servum suum occiderat suum peccatum est, et dampnum. Si ipso die, quo vulneratus est, vel alio modo afflictus tanquam in manibus domini sui moriatur crudelius est, et gravius, sicut in Lege Moysi scriptum est. Ll. Hen. 1. c. 75. Wilk. 269.*

^b *Tres sunt homines, quibus multa pro injuria iis illata solvenda est, sed cædes eorum non compensabitur,—tertius est servus; compensatio pro cæde ejus nulla præfinitur, excepto quod pretium ejus domino suo solvetur, prout animalia occisa compensari debent. Ll. Wall. lib. 4. c. 83. p. 324.*

^c *Ante, p. 393, note^a.*

In some instances the master was answerable for the misdeeds of his slave, as by the laws of Ina, if a Welsh slave killed an Englishman, his lord was to pay sixty shillings for his life, but if that was not paid, he was bound to set him free, and his relations were to pay his were, but if he could not procure a free pledge, then his enemies were to beware of his revenge. But a freeman was not bound to pay the were of a slave, nor a slave that of a freeman, unless he would redeem the deadly feud^a. The laws of Hoel Dda also provided that, in case a slave committed homicide,

^a *Si servus (theowe) Wallus Anglum occiderit, tunc debet ille, cujus est restituere ipsum domino et cognatis, vel sexaginta solidos solvere pro ejus vita. Si ipse tunc pretium illud solvere noluerit, tunc debet dominus eum liberum facere; solvant deinde cognati illius æstimationem capitis, si ille fidejussorem habere possit hominem liberum (burh hæbbe freo); si non habeat, caveant sibi ab eo inimici ejus. Non cogatur liber cum servo simul cognationem solvere, nisi capitalem inimicitiam ab eo redimere velit; nec servus cum libero simul ad id cogatur. Ll. Inæ. 74. Wilk. 26.*

The slave whose were is mentioned in this law, and might be entitled to private revenge, we cannot presume to have been a slave by birth, but of some other description: he probably had been originally free, and reduced to slavery adventitiously; he might have been sold by his parents, or himself taken as a prisoner at war, or punished as a criminal with the loss of liberty for the commission of an offence.

his master should pay the fine imposed for the offence ^a.

By a law of Henry the first, enforcing that of Ina just quoted, if one slave deprived another of life, twenty shillings was to be paid to his lord under the name of manbote, and to the relations of the deceased forty pence. Here it is deserving of notice, that we have a payment expressly required to be made to the relations of slaves. If the lord of the homicide did not pay these sums, and had not another slave by whom he could secure the payment, he might send away the offender that he might escape further trouble, but if he was pursued while he remained with his lord, his lord might either give him up or redeem him. If a freeman killed a slave, he was to pay, in like manner, forty pence to the relations of the person killed, and besides, two muffles^b and a capon

^a *Si servus aliquem quemcumque occiderit, dominus servi cædem compensabit pro servo suo, perinde ac pro quovis alio homicida.* *Ll. Wall. lib. 5. c. 15. p. 470.*

^b The word *musflas*, in the next note, is probably written by mistake of a transcriber for *muflas*, a sort of warm gloves, which is found in several MSS. In the rule laid down by the emperor *Hludovicus* for the government of abbeyes, the monks were required to have *wantos in æstate, muffulas in hieme vervecinas*; and afterwards provision was made—*Ut muffulæ vervecinæ monachis dentur.* *Lindenb. 1129, 1136.* *Pullus* signifies in Latin the young of either bird or beast, and the meaning of *pullum mutilatum* may admit of dispute.

to his lord, twenty shillings for manbote, and blodwyte or fihtwyte, as the nature of the offence might be ^a. If a stranger came into the country and was killed, the punishment of the slayer was

^a *In Westsæxa, quæ caput regni est et legum, twiwindi, i. villani wera est IV lib; twelfwindi, i. thaini XXV libr. Si servus servum occidat domino reddantur XX sol' pro manbota, parentibus interfecti servi XL den. Si dominus occisoris, nec pro eo reddit, nec servus habet unde reddat, dimittere potest eum dominus ut sibi caveat nisi forte gravetur dum secum est. Quod si eveniat eum repetentibus reddat, vel inde componat. Si liber servum occidat, similiter reddat parentibus XL den. et duas musflas, et unum pullum mutilatum domino servi XX sol' pro manbota, blodwytam vel fihtwytam sicut acciderit. Si servus Waliscus Anglicum hominem occidat debet ille cujus servus est reddere eum domino, et parentibus, vel dare XL sol' pro vita sua. Si hoc capitale nolit dare pro eo, dimittat eum liberum, solvant postea parentes ejus weram illam, si cognitionem habeat liberam; si non habeat observent eum inimici; non cogitur liber cum servo megildare, nisi velit ei satisfactionem facere, nec servus cum libero. Si Anglicus homo Dacum occidat, liber liberum, persolvat eum XXV libr vel ipse malefactor reddatur, et tantundem reddat Dacus de Anglico si eum occidat. Si Anglicus Dacum servum occidat, reddat eum XX sol', et Dacus similiter Anglicum, si occidat; attamen persolvatur plena wera. Si se invicem occidant liberi, vel nativitate vel casu servi unus pro alio jaceat. Si superabundat aliquis eorum in genitura, quærant parentes ejus weræ, vel vindictæ super plus. Si unius dignitatis et paritatis sint in eo consistat, si quis de servo liber factus occidatur, omne malum occisoris pro nihilo reputatur, si homicidium fecerit contra legem, quia scilicet rectum, quod inde habiturus erat sibi abstulit, reddat vero quem occidit, tanquam ab eo nihil passus sit. Ll. Hen. 1. c. 70. Wilk. 265.*

regulated by the laws of Ina; if he was a slave, the fine was sixty shillings or fifty shillings^a. If several freemen killed a freeman, or several slaves, whether so by birth or any other means, assisted in killing a slave, one only was punished for all; but if one of the party was of higher birth than the others, then the parents of the deceased might insist upon the higher value of his were, or right of private revenge being added. If a slave made free, was illegally killed, the slayer could not complain, whatever injury he sustained in commission of the act, for he had forfeited the right to complain of it, but he was also to pay for the person he had killed, as if he had received no injury from him.

If a slave committed theft, the laws of Ina imposed a double compensation^b; but those of Wihtred were much more severe, and he might be sold abroad, or redeemed for seventy shillings,

^a 23. *De peregrini hominis cæde.*—*Si quis peregrinum occidat, rex habeat duas partes æstimationis capitis, tertiam partem liberi vel cognati. Si autem cognatis destitutus sit, dimidium rex (habeat), dimidium socius. Si abbas sit, vel abbatissa, partiantur eodem modo cum suo rege. Wallus censum pendat centum viginti solidos. Filius ejus centum. Servus sexaginta solidos. Alias quinquaginta. Walli hyda duodecim. Ll. Inæ. 23. Wilk. 18.*

^b *Si servus (theow) furetur duplici emendatione compenset. Ll. Æthelbirth. c. 89. Wilk. 7.*

as the king pleased^a. If a slave stole, or committed homicide in company with freemen, the freemen only were liable to punishment^b. And where a slave, by the command of his master, killed a man, he was to fast upon bread and water for forty days, besides three Lents, with the feast-days established by law, but his lord was to fast for fifteen years^c.

The laws of Henry the first provide for the punishment of thefts committed by slaves, and explain the nature of the responsibility cast upon their masters. If a slave stole to a smaller value than eight pence of things of a certain description, his lord was required to make restoration, if it was the first offence, and he might be whipped and branded by the prosecutor; but if he was taken with the things stolen upon him, he was to suffer death as a freeman. The chastisement of slaves for thefts committed by them was not confided to the king's courts of justice, but could be

^a Wilk. 12, *ante*, p. 363, note ^b.

^b *Si servus cum liberis homicidium faciat, totum liberis imputetur, et idem solus furatur, qui cum servo furatur, si negetur, werelanda fiat. Ll. Hen. 1. c. 85. Wilk. 274.*

^c *Si servus jussu domini sui hominem occidat XL dies pæniteat in pane et aqua, et tribus quadregesimis cum legitimis feriis a carne et a potu abstineat, dominus ejus pæniteat quindecim annis. Ll. Hen. 1. c. 68. Wilk. 265.*

inflicted only by their own lords. If many slaves were concerned in a theft of small value, one alone was to be selected by lot, and punished for the whole party. But if several thieves stole a sheep, a pig, or any thing of greater value, if the theft was punishable with death, they were all to suffer together; but fugitive slaves, for their first offence, were to be delivered to their lord and branded^a, as indeed was the case with freemen.

Most of the slaves in England, in the early part of the Saxon history, were heathens and idolaters, and the kings, at the instigation of the bishops, seem to have been particularly anxious for the salvation of the souls of those whose bodies were kept in bondage. Among the laws of Wihtred are some, which have for their object the weaning of

^a *Si servus in redimendis immobilibus intra octo denar æstimatis furetur; reddat dominus ejus repetenti capitale suum semel, et verberetur, et signetur ab eodem repetente prima vice. Si in mortificantibus handhabenda sit, sicut liber moriatur. Si liber cum servo furetur, liber solus patiatur. Quicquid evenerit dampnationis vel redemptionis servus domino suo reddatur jure castigandus. Si plures servi furentur unus pro omnibus patiatur, et is quem sors obtulerit. Si furtum redimendum sit, capitale repetentis conjectent. Si plures furentur unam ovem, aut porcum, aut deinceps aliquid majus, aut morte puniendum simul omnes patiantur, sive furtum simplex sit, aut multiplex. De fugitivis vero, conductitiis et residentibus, servis vel liberis, secundum legem perquisitis institutum, prima vice furatos reducidos et signandos esse. Ll. Hen. 1. c. 59. Wilk. 259.*

them from their ancient practices and prejudices, and exacting a strict performance of the christian ceremonies. If a slave made an offering to devils^a, or if he of his own accord eat meat on a fast-day, he was to pay six shillings, or be whipped^b; if he did not observe a fast-day in other particulars, he was liable to be whipped, or pay money to be excused, according to the nature of the offence^c.

When a slave was accused he had a right to clear himself by the ordeal, and if he did not succeed, whatever the offence might have been, he was by the laws of Æthelstan to pay ceapgylde, or so much money as would suffice for the purchase of a slave, and be whipped three times, or add the value of another slave, and be mulcted in the half of the usual wite^d. But afterwards, by the laws of Æthelred, he was for the first offence to be marked with a hot iron, and for the second

^a *Ante*, p. 345, note ^b.

^b *Si servus (theow) cederit carnem, sua sponte, eligat vi solidos vel cutem suam. Ll. Wiht. Wilk. 11.* If his master gave the meat, he was punished. See *ante*, p. 331, note ^c.

^c *Vapulet, vel pretium verberum pro ratione ejus quod factum est luat. Ll. Cnuti. 43. Wilk. 141.*

^d *Statuimus de servo (theowmen) si reus fiat ex ordalio, ut solvatur estimatio emptionis (ceap gylde), et vapulet ter, vel aliud pretium det, et sit mulcta (wite) dimidiata pro servo (theowum). Ll. Æthelst. 19. Wilk. 59.*

to lose his life ^a. The laws of Cnute contained a similar provision ^b.

The different ways in which a slave might obtain his freedom may be reduced into two classes, namely, those which were carried into effect, 1. by operation of law, or 2. the act of the parties. To the former belong those cases where, for some default of the lord, the slave was removed out of his power, and elevated to a state of freedom. Of this sort several instances have been mentioned

^a *Si servus (theowman) fierit in ordalio signetur prima vice, et secunda vice non compenset aliquid, nisi caput. Ll. Æthelr. 3. Wilk. 103.*

^b *Et si servus (theowman) ex ordalio impurus fiat, inuratur prima vice, et secunda vice nulla alia fiat compensatio nisi capite (nan other bote, buton that heaford). Ll. Cnut. 29. Wilk. 139.* The nature of the mark fixed upon the slave, in any of the cases mentioned in the text, is not particularly described, but in the law of Cnute we are told that it was to be burnt in. This mode of punishment was probably borrowed from the Continent, where the mark was usually branded on the face or cheeks. *Et si postea ipse iterum in furto tentus fuerit, decalvet eum, et cædat per disciplinam, sicut decet furem, et ponat in eo signum in fronte et in facie. Et si nec sic emendare voluit, et post istas districtiones in furto tentus fuerit, vendat eum foris provinciam, et habeat sibi pretium ipsius, veruntamen ut probata causa sit, et non eum sine vera probatione debeat vendere. Ll. Longobard, lib. 1. tit. 25. s. 54. Lindenb. 569.* See also *Charta Henrici Imp. Anno 1023*, cited Du Cange. *Signum.*—*tollantur capilli et corium, et insuper in utraque maxilla ferro adhoc facto etiam candenti bene caraxetur et comburatur.*

in the former pages of this work. Thus by a law of Ina, if a Welsh slave killed an Englishman, and his lord did not pay sixty shillings, he was to be made free^a. So, if a lord compelled his slave to work on a feast-day or a Sunday, he was entitled to his liberty^b, or if a married man lay with his female slave, she was released from bondage^c, or if a master deprived his male or female slave of a tooth or an eye^d.

Another mode of manumitting slaves by operation of law appears to have been introduced at no very distant period before the conquest, for it is not to be traced in any laws of greater antiquity than those of William the conqueror. They enacted, that if slaves resided for a year and a day without any accusation against them in any

^a *Ante*, p. 318, note^a. The slave here mentioned must have been one not by descent, but probably a prisoner of war, for his relations are mentioned as having the option to pay his were. The word "wealh" in Saxon signified a stranger, and hence the Welsh may have acquired their name; but the slave described in the text may have been a prisoner taken not from the Welsh, but any other foreigners. The same observation may perhaps apply to other places where this word occurs.

^b *Ll. Cnut.* 42. *Wilk.* 141. *ante*, p. 350, note^a. And *Ll. Inæ.* 3. *Wilk.* 15. *ante*, p. 361, note^c.

^c *Ll. Cnut.* 51. *Wilk.* 142. *ante*, p. 391, note^b.

^d *Ante*, p. 393, note^b.

of the king's cities, or castles, or burghs surrounded by a wall, they were ever afterwards released from a state of bondage^a.

We have had occasion to observe before, that a child partook of the same rank with its father; of course, the daughter of a freeman was free, and of a slave, a slave. But Hickes has remarked, that female slaves were not enfranchised by marrying freemen, and therefore it was customary to make them free before marriage, that they might afterwards partake of the privilege of their husbands.

As the law gave the master the power of selling or disposing of the slave, so it gave him the power of emancipating him. This was considered as an act of religion in many cases, and the bishops and clergy recommended it as charitable and meritorious. In the year 816, at a council held in Mercia, it was ordered, that at the death of every bishop all his English slaves should be manumitted, and that upon the same occasion every other bishop and abbot should release three slaves, giving to each three shillings^b. And

^a *Item si servi permanserint sine calumnia per annum et diem in civitatibus nostris, vel in burgis in muro vallatis, vel in castris nostris, a die illa liberi efficiuntur, et liberi a jugo servitutis suæ sint in perpetuum. Ll. Gul. Con. 66. Wilk. 229.*

^b 1 *Spelm. Concil. 330, 331.*

Æthelstan charitably directed all his gerefas throughout his kingdom, to redeem each one wite theow or slave, who had been punished with the loss of liberty, to be testified by the bishop in whose diocese it took place ^a.

Sometimes the emancipation of slaves was a mere gratuitous act of benevolence on the part of the master, and many instruments are still preserved by which this was done.

The ecclesiastical laws of Eadgar, recommend to every one who had the power, to manumit their own slaves, and redeem those of others ^b. King Æthelstan, after declaring he had freed Eadhelm because he had become king, added, “and I give to the children the same benefit “as I give to the father^c.” And Æthelstan

^a *Ego Æthelstanus rex omnibus meis præfectis (minum gerefum) in regno meo, notum facio—ut nutriatis omnibus modis unum pauperem Anglum, si quem habeatis, vel alibi inveniatis. De duabus meis villis detur ei quovis mense una amphora farinæ, et una perna porci, vel unus aries, qui valeat IV denariis, et vestitus pro XII mensibus quolibet anno. Et ut redimatis unum libertate mulctum servum, et hoc omne factum sit ex Dei miserecordia, et amore mei, sub episcopi testimonio in cujus dominio sit illud. Et si præfectus hoc prætermittat, compenset XXX solidos, et pecunia dividatur egenis, qui in ea urbe (on tha tun) ubi hoc non erat peractum testimonio episcopi. Ll. Æthelst. Proem. Wilk. 56.*

^b Wilk 95.

^c *Hick. Diss. Ep. 12.*

Manessone, gave to Ramsey abbey, Chateriz and other lands, and of thirty men in number who belonged to those lands, he manumitted thirteen, to be chosen by lot, and to be placed where four roads met, that they might go where they pleased ^a. Twelve slaves are mentioned in Domesday-book to have been freed by their lord ^b. Halwun Nose, of Exeter, liberated Hagel his family woman ^c; and two Irishmen were made free for the sake of an abbot's soul ^d.

It happened not unfrequently, that the pious exhortations of the clergy had the most beneficial effects, and excited generous feelings of compassion towards slaves in the hearts of their dying masters. Several wills might be quoted, but I shall refer only to those of Wynfleda, which is very particular in describing the objects of her bounty ^e, and Æthelstan the

^a *Et terram de Walde sanctæ Ætheldrithæ de Ely, et per omnes terras suas de xxx hominibus numeratis, xiii manumisit, quemadmodum eum sors docuit, ut in quadrivio positi pergerent quocumque voluissent. Hist. Ram. 3 Gale. 407.*

^b *Ante*, p. 316, note ^a.

^c "Huve wiman thi hy bocle," i. e. bocade. *Hickes. Diss. Ep.* 12.

^d *Append. to Sax. Dict.*

^e Wynfleda says, let (freoge man) Wulfware be freed, and follow whomsoever he likes best, and let (freoge man) Wulflæde be freed, on the condition (Wulflæde on thæt

ætheling, son of king Ethelred, who directed that all the men reduced to slavery at his prosecution, should be manumitted^a.

Many instances occur of third persons charitably purchasing the freedom of slaves and their offspring. Ælgyfu, the good, redeemed Hig and Dunna, and their offspring, from Mangode, for 13 mancs, and she paid toll to the port gereffe and Godsuc Gupa^b, as if she had been engaged in the purchase of a horse, or any other cattle. And Godig Bucca redeemed from an abbot, Leofgifa and her offspring for half a pound^c.

gerad) that she follow Æthelflæde and Eadgyfe (her daughters)——(freoge man) and let Gerburg be freed, and Misun, and his——(his——el) and the daughter of Burhulf, at Cinnuc, and Ælfsige and his wife, and his eldest daughter, and Ceolstane's wife; and at Ceorlatune, let Pifus be freed, and Edwin, and ——'s wife (and——e——an wife); and at Saccancumbe, let Ædelm be freed, and man, and Johannan, and Sprow and his wife, and Enefætte, and Gersand, and Snel; and at Colleshylle, let Æthelgythe be freed, and Bicca's wife, and Æffa and Beda, and Gurhan's wife, and let Brysig's wife, the sister of Wulfware, be freed; and——the workman (thysne wyrhtan) and Wulfgythe the daughter of Ælfswythe. *Hickes. Pref. 22.*

^a ——*notum facio.*——*Imprimis, quod concedo ut manumittant omne mulcta-detentum hominem (wite-fæstne man) quem ego in litem duxeram.* App. to Lye's Sax. Dict. Chartæ. 5.

^b *Hickes. Diss. Ep. 12. 15.*

^c *Hic notificatur in hoc Evangeliorum libro Godigum Buccam dimidio libræ Leofgifam servam (thægean) North-*

We have shewn at the beginning of this chapter that it was not uncommon for slaves to purchase their own liberty, and that of their wives and families.

That the earliest advances towards the emancipation of slaves was connected with religion, appears from its being mentioned in the laws of Wihtred as taking place at the altar, and from those of Æthelstan making necessary the testimony of the bishop to the liberating of slaves by his gerefas^a. But it seems that a slave manumitted at the altar had severe conditions annexed to his freedom, for his property belonged to his master, and his weregild, and his mund^b. The clergy, eager to have the sanction of the law upon any conditions, probably invented this ecclesiastical mode of giving freedom, in order to conquer the inveterate prejudices of the great laymen, who considered every decrease in the numbers of their slaves as a diminution of their grandeur; for slaves were the trophies of

stolcensis glebæ adscriptitiam cum suis (and hyne offspring) *ab Ælfigo abbate in perpetuam libertatem redemisse, &c. Diss. Ep. 10.* The words "*glebæ adscriptitiam*" are not in the Saxon, unless implied in the word *thægean*.

^a *Ante*, p. 414, note ^a.

^b *Ante*, p. 317, note ^a.

war, and the possession of them gratified the vanity, and constituted the wealth of their masters.

It cannot be supposed that there was not some secular mode of emancipating slaves, though there is none recorded, or even mentioned, in any of the laws made before the conquest.

Many writings by which slaves had been liberated, have been quoted before in this chapter, and many more might be referred to. They seem to have been known from the earliest times, and we may presume that they were executed, like all other solemn instruments, in such a manner as to give them the greatest possible authenticity, namely, in courts, markets, and churches. The presiding officers of each district, and the public assemblies of its people, bore testimony to these grants, or, for greater security, they were placed upon the altars or entered in the books of religious houses, and the monks became witnesses of the transactions^a.

The practice of selling slaves beyond the sea, was in some cases sanctioned by the laws^b, but it may have become frequent from the insecurity of all property before the Anglo-Saxon government was fully established, and the consequent

^a *Hickes. Diss. Ep. 9, &c.*

^b *Ante, p. 353, note ^a.*

anxiety of masters to dispose of them at every convenient opportunity, and realize their value in money. Before the reign of William the conqueror, feeble efforts had been made by some kings to regulate and restrain the sale of slaves, but it was not till after the conquest, that their sale abroad was entirely prohibited, or that a secular mode of emancipation claimed the attention of the legislature, and regulations were made to give effect to it. Whether the law in question was introductory of new provisions, or declaratory only of old ones, may be disputed; it enacted that a master should not sell any man out of the country, but if he wished to release a slave, he should take him by the right hand and deliver him to the sheriff in a full county-court, and proclaim that he was released from slavery by that manumission; he was then to shew him the free roads and gates by which he might leave the court, and give him the arms of a freeman, viz. a spear and a sword, and from that time he became free^a. To shew him the free ways and

^a *Et prohibeo, ut nullus vendat hominem extra patriam; si quis enim velit servum liberum facere, tradat eum vicecomiti per manum dextram in pleno comitatu, et quietum illum clamare debet a jugo servitutis suæ per manumissionem, et ostendat eis liberas portas et vias, et tradat illi libera arma, scilicet lanceam et gladium: deinde liber homo efficitur.*

* * * * * *Et ista præcepta et statuta* (including all

gates would have been wanton mockery, if he had remained bound to the same house, plot of ground, or lord, after his enfranchisement. The object of the law seems to be, to prevent lords from capriciously removing and selling their slaves from their lands, by suggesting manumission as an innocent expedient for dissolving the connection between them.

It may be recollected that the *coliberti*, or freedmen, treated of in a preceding chapter of this work, are generally described in Domesday-book as annexed to particular manors, and it may be doubted whether they could have been manumitted in the form here prescribed, which had the effect of totally destroying the former connection between the lord and slave. Possibly the appellation of *coliberti* was not applied to freedmen emancipated by virtue of this law, but confined to those who were liberated only partially, or by the less solemn acts of their lords.

The provision of William the conqueror, just mentioned, was enforced and enlarged by the 78th law of Henry the first, whereby a slave might be enfranchised in a church, a market, or in a county or hundred court, publicly before witnesses, pointing out the free ways and that went before) *non sint violata super forisfacturam nostram plenam.* *Ll. Gul. Con.* Wilk. 218, 229.

gates open to him, and placing in his hands a lance and sword, or whatever were the arms appropriated to freemen^a. But in all cases, when a slave became free, his lord was entitled to the manbote of a freeman^b.

The 33d law of William the conqueror has been construed in a former page^c to relate to freemen as cultivating the lands of their lords, but it may be doubted whether so much of it at least as respects *nativi* or naifs, may not be applied to slaves; they were forbidden to depart from their land, or to endeavour to obtain false charters of nativity to excuse them from performing the proper services belonging to their land, and whenever a naif fled from his land, every one was prohibited from receiving either him or his cattle, and required to compel him to return and do the services he was liable to perform^d. I am still inclined to think that the naifs here mentioned were not slaves^e, but vil-

^a Wilk. 271. copied *ante*, p. 400, note ^a.

^b *Si quis servus, vel natus vel factus, in libertatem transeat, habeat dominus suus manbotam liberi. Ll. H. 1. 77. Wilk. 270.*

^c *Ante*, p. 282.

^d *Ibid.* note ^a.

^e A. 94. 8. King Edred, in his charter to the abbey of Croyland, says, "*Et volo, quod dicti monachi sint quieti et*

lans and other *ascriptitii glebæ*, who were free-men, for they held their lands by services, and not at will, and it was expressly enacted, that they should not be removed by their lords so long as they performed their accustomed services. But the 89th law of Henry the first is expressly made to apply to slaves, and if a slave, by a charter of freedom, had obtained his liberty, he became free, as has been already stated in a former chapter of this work^a. It might certainly be difficult to reconcile these two laws, upon

soluti ab omni scotto, geldo, auxilijs vicecomitum, hydagro, et a secta in schiris, wapuntakis, hundredis, thirchingis, et omnimodis alijs curiis et seculi oneribus universis. Et præcipio, quod omnes homines fugitivi, quos ijdem monachi, et testimonium quatuor vel quinque hominum fide dignorum coram vicecomite in patria, in qua tales manent, possunt affidare suos nativos esse, reducantur per prædictum vicecomitem in abbathiam eorum cum omnibus catallis et sequelis eorum, omnium reclamazione et reluctatione abinde remota et annullata. Et si quid prius egerint in fraudem dominorum suorum, illud cassatum omnino decerno. Et si quis hominum nativorum suorum, vel native de eis tenentium aliquod delictum fecerit, pro quo catalla sua debet perdere, ipsa catalla prædictis monachis integre liberentur, ubicunque facta fuerit justitia. Et volo, quod vicecomes, vel aliquis de ballivis seu ministris meis repertus negligens, vel protrahens eorum negotia contra juris ordinem et libertates eorum, sit in forisfactura xx librarum thesauro meo solvendarum. Ingulph. 498.

^a Ante, p. 322, note ^a.

any other supposition than that there was some material difference between the charters of nativity mentioned in the first, and the charters of freedom alluded to in the last ; and between naifs and slaves. If any person, after he was manumitted, was unable to produce the charter or instrument of his enfranchisement, or it was invalidated by the person who claimed him as his slave, he was to pay his weregild, two-thirds to the party claiming him, and one-third to the king, and was again to bargain for his liberty by command of the king ^a.

After a slave had been in any manner made free, he was introduced to all the rights and privileges of a freeman. Those indeed who had been slaves by birth, might generally be contented to rank with the humble freedmen so often mentioned in Domesday-book, but those who had been originally free, and reduced to slavery by fortuitous circumstances, if they did not resume with liberty their former rank, might, aided by superior talents and good fortune, aspire to fill the most exalted situations. In the year 883, Guthred, son of Hardicnute, being sold to a widow as a slave, and his freedom afterwards purchased by an abbot, was raised to the

^a *Ante*, p. 322, note ^a.

throne of Northumberland^a. And Ceolwulphus, who had been the slave of king Beorred, was placed by the Danes upon that of Mercia^b.

^a *Hoved.* 234. *Sim. Dun.* 130.

^b *Cui successit in regnum Merciorum subrogatus per Danos, quidam servorum Beorredi regis, Ceolwulphus, Anglice genere, sed barbarus impietate. Ingulph.* 495.

I N D E X.

A.

Ætheling, a German name, 32—*ing* denoted descent, *ib.*—used under Hen. 1. *ib.*—applied to nobles, 33—then to royal family only, 34—to sons of kings, 35—if legitimate, 38—one exception, *ib.*—Qu. if to a grandson whose father had not reigned, 35—not to the son of an ætheling, 36—but to the brother of a king not reigning by descent, 37—honours of, 40—land appropriated for, 45—not mentioned in Domesday, 40—honourably treated, *ib.*—had thanes, 41—were of an ætheling, 42, 44—could not devise without the king's consent, 51.

B.

Barons, first known, 210—numerous at conquest, 211—composed wittenagemot of Hen. 1. 213.—Barons of the king, 214—had soc, 215—administered justice, 229—same as lords of manors, 215—and king's thanes, 218—attended county and hundred courts, 231.—A baron and thane the same, 220.—Barons of counties, 222.—Lower barons were lower thanes, 223.—Barons of eorls, 227.—Archbishops, 224—and abbeyes having honours, *ib.*—Reliefs of barons of the king same as of highest king's thanes, *ib.*—Reliefs of some barons paid to lords, 225.

Birth, noble, respected, 92.

Boors, (see *Freedmen*,) what, 302—slaves or free, *ib.*

Bordars, who, 303—upon the demesnes, 301, 305—free, 301—inferior to villans, 302, 305—but above cotters, 305—in husbandry, 306—might have small portions of land, *ib.*

Burgesses, were free, 322—generally abject, 323—some had property, *ib.*—and privileges of lords, *ib.*

Burhbryce, what, 62, 238, 340.

Burgheat setl, what, 186.

C.

Chi'dren, ranked as their fathers, 356.

Ceorls, who, 324.—*Twihinds*, *ib.*—included villans, *bordars*, and cotters, *ib.*—cultivated the land, 281—were free, 282—might hunt, 335—opposed to slaves, 277—to *eorls*, 278.—A *ceorl* might become a *thane*, 183, 334—without having land, 189—not members of *wittenagemot*, 334—protected, 280.—Lying with his wife, 343—or slave, 345—or killing his inmate, *ib.*—or breaking his fence, see *Edorbryce*.—*Ceorls* attended by female slaves, 343—their wives punished for adultery, 344.—*Ceorls* punished for sacrificing to devils, 345—or living in adultery, 348—or for thefts, 346—might clear themselves, 348.

Clito, Latin for *ætheling*, 47—sons of kings so called, 48.

Coliberti, or freedmen, 313, 420. see *Freedmen*.—*Qu.* if completely free, 420.

Comes, introduced, 78—meaning of, 73—signified a companion, 75—or *gesithe*, *ib.*—afterwards a companion of a king, 78—and an *ealdorman* or *eorl*, *ib.* 74.

Comitatus, meant shire or county, 74—originally a company, 76—then the district of an *eorl*, 80—not bounded

within a modern county, *ib.*—which is nearly same as at conquest, *ib.*—The *comitatus* of earl Godwin, 79, note.

Comitissa, the wife of a *comes* or eorl, 93.

Consul, used for ealdorman or eorl, 74.

Coscez, 310—different from cotters, *ib.*—were on demesnes, 311—inferior to villans, *ib.*—above slaves, *ib.*—mentioned with villans and bordars, 312.

Cotters, or cotmen, 307—numerous, 308—inferior to villans, *ib.*—served them, *ib.*—distinct from them, *ib.*—had no land, 309—but might pay rent, *ib.*

Cwen signified a wife, 2—but confined to the wife of a king, *ib.*

D.

Danelege, what, xxvii.

Danes, history of, in England, xxviii—Ælfred divides the kingdom with them, xxviii, xxxii—boundaries, xxviii—continued under his successors, xxx.

Danigeld, account of, xx, note ^a.

Daughters of the king had establishments, 41.

Demesne, what, 275.

Domesday, meaning of, xiii—history of, xv—its object, xv, xviii—frauds in, xvii.

E.

Ealdormen, 53—expressive of old age, *ib.*—*maiores*, 55.—title of those presiding over large, as well as small districts, 54—in judicial authority, 55—usually in shires, 57—rank next to æthelings, *ib.*—equal to bishops, 58—had civil administration, *ib.*—and military, 59—appointed by the king, 58—protected, 63—sanctuary of, 64—punished, *ib.*—their vassals, how to remove, 65—their rank, 58—and vast influence, *ib.* 65, 79, note.

Ealdordom, what, 57, 71.

Edling, a British title, 39—his rank, *ib.*

Edorbryce, what, 239, 340.

Eorl, or jarl, introduced by the Danes, 65, 67—used for ealdorman, 68—but different, 69—superseded ealdorman, 60—except in smaller districts, 70.—Eorls and ealdormen at same time, 72—appointed by the king, 80—how invested, 82—lowest subjects might be, 83—rank and privileges, 58, 67, 83, 85, 92—had thanes, 84—great respect to wives and children of, 91—offices not hereditary, 94—but sons often succeeded, 96—removable, 97—but sometimes resisted, 98—duties civil and military, *ib.*—military by land and sea, 99—afterwards civil only, *ib.*—had third penny, and of what, 100—not of markets only, 101—collected by their officers, 104—the two-thirds of the crown granted to subjects in whole, *ib.*—or in part, 105—part of eorls one-third reserved to the king, 106—the eorl's third part of profits of county, *ib.*—included one-third of punishment of thieves, *ib.*—and all forfeitures, 107—by usage, *ib.* 108—and so in Henry the second's reign, 107.—Eorls might grant their third pennies, 110—or they might be annexed to manors, 111—or hundreds, *ib.*—Eorls had lands in counties set apart, 112—and double of fines and forfeitures given to thanes, 113—power formidable to the crown, 114—vast possessions of, 114—influenced the supreme courts, 116—assumed legislative power, *ib.*

F.

Feudal system introduced, x—in the laws of Æthelstan, 325.

Five hydes, tenant of, 187, 255—an honour, 188.

Free, meaning of, 274.

Freedmen, not free among Germans, 313—here free, *ib.* 319, 423—had weres, 318—might shew their charters, 321—called bures, 319—not numerous, 320—on the demesnes, 314—laboured, 315—with slaves, 320—some held land, *ib.*—or paid rent, *ib.*

Freemen, 274—many on the demesnes, 275—and servants, 331—superior freemen in tythings, 301, 328—and pledge, 330—but inferior not, 301—every one had a lord, 325—might change, 326—could not be turned off, 327—or go without leave, 328—might fight for his lord, 328—bound to military duty, 335, 336—some on horseback, 335—their arms, 334—protected in person and liberty, 337—stolen or sent over seas, 338—killing one punished, 339—punished for not keeping Sundays, &c. 348—never whipped, 351—might hold by base tenure, *ib.*—might become slaves voluntarily, 352—or for crimes, *ib.* 353—might be restored, *ib.*

G.

Gafol-payers, 286—free, *ib.*—did not do homage, 288—gafol land inferior to land held by services, *ib.*—paid reliefs, 296.

Geneat, 237—of the king, *ib.*

Gerefa means companion, 252.

Gesithe, 246—had rank, 248—same as *comes*, 246, 250, 251.

Gifts of land to abbies, &c. required consent of king and wittenagemot, 23.

H.

Heriots, 143, 144—introduced, 86—different degrees of, 87—all king's thanes paid the same, 152.

Hlothe, 265.

Homo, 276—*liberaliores homines*, 133—*liberi homines*, 276.

Honour, 188.

Hydes, xix, 187.

J.

Juniores, 55.

L.

Land-agende-men, 268—possessed land, *ib.*—above a ceorl, but below a king's thane, *ib.*—not lords of land, 271—privileged ceorls, 272.

Lancashire, state of, 170.

Law, or laga, meaning of, xxv.

Laws of Anglo-Saxons, history of, xxi.

M.

Maga, meaning of, 143.

Mæga lage, what, xxvi.

Man, signification of, 276.

Manbote, 113, 297.

Manors, 145—how created, 146.

Manumission of slaves, 316—not of villans, *ib.*—conditional, 317—ecclesiastical, 317, 417—secular, 418.

Mund, 340—of a freeman, *ib.*

Mundbryce, 61, 113, 169.

Murcena lage, xxvii.

N.

Naiſs, Qu. if slaves, 421.

P.

Peace in houses, 61—in public assemblies, 63.

Q.

Queen consort, first of subjects, 2—crowned, 3—with the king, *ib.*—or separate, *ib.*—wore her crown at festivals, 4—was present at other assemblies, *ib.*—sat at table with the king, *ib.*—privilege lost, *ib.*—resumed, 8—had her separate establishment and thanes, 9—lands settled upon her, 10, 12—with reservations out of the king's, 10, 25—sometimes incident to tenure, 10—*aurum reginæ*, 26—had rents paid in money, *ib.*—supplied in kind, 28—was as a feme sole, 11, 16, 23—attested grants, 23—of her husband, *ib.*—gave to religious houses, 12, 16, 21.—Trial and gift of Emma, 13.—Eddeve, 16.—Mathilde, 18.—Other queens, 15.—The king confirmed the grants, 22.

Queens dowager, treated with respect, 29—attested grants of the king, *ib.*—and so did the mothers and grandmothers, *ib.*—Emma and Editha resided at Winchester, 30.—Queens dowager gave lands to monasteries, 31.

R.

Radcnihts, 267—not sixhinds, *ib.*

Ranks of people in England, 2.

Reliefs, (see *Barons*, *Eorls*, *Thanes*, and *Villans*,) soon after conquest, 88—confounded with heriots, 89—specific, *ib.*—superseded heriots, *ib.*—both paid, 90—changed into money-payments, 91—of thanes, 151.

S.

Saxons, history of, iii—their migrations, iv—in England, v, ix—their kings, xii—and chiefs, viii.

Servants, distinct from slaves, 331—were not in tythings, 332—lords answerable for, *ib.*—but not for the servants of servants, 333.

Servientes, of bishops and religious houses, 126—paid by grants of land, 127—of lords, numerous, 126, 128—signification of changed, 129—applied to households of lords, 130.

Servientes regis, 123, 125, 126, thanes so called, *ib.*—but distinct, 124—possessed large estates, 126—were paid by grants of land, 127—advanced in dignity, 128—applied to persons in the king's household, 130.

Settle, 186.

Sithcundman, 244—known on Continent, 253—a military officer, *ib.*—above a ceorl, 254—two classes of, 255—one possessed of land, *ib.*—the other having none, 257—difference between, 255, 258—was not a lord of land, 260—a vassal, *ib.*—went to the fyrd in state, 261.

Sixhindman, 234, 263—his were, *ib.*—his house protected, 264—and his wife, 265—his hlothbote, 266—not a radcniht, 267—same as sithcundman without land, 262.

Slaves, 355, 399—two classes of, 368, 372, 399.—Esnes not necessarily slaves, 368—they were protected, 369—were punished as slaves, 371—appellation disused, 370—were working slaves, *ib.*—not the *servi* mentioned in Domesday, 374.

Slaves made voluntarily, 358—by gambling, 359—from poverty, *ib.*—Son sold, 360—or a pledge, *ib.*—for crimes, 361—then called wite theow, 362.—Prisoners of war, 363—many taken, 365—by birth most numerous, 355.

Slaves might marry free women, 356—their children slaves, *ib.*—Christian, 381—pagan, *ib.*—Slavery might be temporary, 381, 382.

Slaves numerous, 373, 379, 380—never held land, 374—but worked on their master's, 375.—Qu. if villans in gross, 375—on the demesnes, 376—either on lord's or villan's part, *ib.*—or on arable land, *ib.*—but generally on the demesnes, 380, 396.

Slaves, political state of, 377—property of their masters, 378—and sold or transferred as cattle, 378, 396—a branch of commerce, 384—paid toll on sales, *ib.*—sold at Rome, 385—exported from Bristol, *ib.*—exportation prohibited, 388, 418—many female, 389—protected, 390—wretched state of, 391—disposed of by their masters, 392—marrying freemen did not make free, 413.

Slaves, condition of, 394—might possess property, 395—have men under them, 397—had no arms, 399—not in tythings, 400—protected by their masters, 401—not connected with freemen, 403—had no were, fine paid to masters if killed, *ib.*—masters answerable for, 404—their lives protected, 405—punished for homicide, 404, 408—for theft, 407—in the courts of their lords, 408.—Mostly pagans, 409—cleared by ordeal, 410—liberated by operation of law, 411—or acts of masters, 413—how manumitted, *ib.*—by will, 415—by purchase, 416—manumission ecclesiastical, 417—secular, 418, 419—writings of, 418.—A slave emancipated was free, 423.

Soc and *sac*, 147—grants of, *ib.*—Thanes might have their own soc, 144—might be separated from land, 147—or forfeitures be reserved, 148—and granted separately, *ib.*—Having soc, &c. a privilege, 151, 152—common in the Danelage and Kent, 152.

T.

Thane, derivation, &c. of, 118—applied to officers of the king, 119—how described in Domesday, 120—their offices, 121—sometimes same as *servientes*, 123, 125, 135.—Thanes not confined to households, 130—managed forests, *ib.*—Less thanes under them, 131, 134.—*Elemosinarii* joined to thanes, 135.—Entries irregular, 136.—Some thanes and *servientes* might chuse lords 139.—Officers of the king respected, *ib.*—attested charters, 140.

Thanes, how described in Saxon, 190—were above *milites*, 196—were lords of land, 168—having soc and sac, 164, 170—proved by reference to Lancashire, 170, 174—forfeited to whom, 156.—Rank open to slaves, 183—how *ceorls* became thanes, *ib.*—title of, lost in that of barons, 229—disappear, 230—gradations of, 146.—King's thanes were highest, 141.—On death the king nominated, 142.—distinct from thanes, 142, 163—in heriots and reliefs, 143.—Lords of manors were king's thanes, 145—and thanes having soc, 144, 158.—Served in army, 162—no subject had jurisdiction over, *ib.*—called thanes only, 163.—Some king's thanes above others, 144, 148.—“Further known” to the king, what, 148.—Dispersed, 157—in burgs and shires, *ib.*—Thanes noble by birth, 193—respected, 195.—Thanes of queens, 205—of *eorls*, 206—of thanes, *ib.*—of abbeys, *ib.*—granted to religious houses, 161.—Relative situation of thanes and *ceorls*, 237—in courts of justice, 240—in weres, 231, 235—and manbotes, 236.—Were of a thane 1200 shillings, 232—six times that of a *ceorl*, 232, 233—of a thane never varied, 234.—Thanes called twelf-hindmen, *ib.*—Not all of wittenagemot, 191—great power of, 203—hold most of land, 199—dispersed every where, 200—and numerous, 202—particularly in the west, 204.—not in tythings, 196.—Answerable for their families, 197, 198.—Could give sanctuary, 241.—Attended courts of counties, 200—and hundreds and burgs, 201.—Might hold of superior lords, 207—whether king, queen, *eorl*, or thane, 208.—Might do services of villans, 175, 177.—Numerous in Lancashire, and why, 179—and in north of England, 182.—In Yorkshire some of high rank, *ib.*—favoured by the clergy, 242.—How punished, *ib.*—Degradation of, 243.

Thaneland, 138.

Thaneship, 134, 165, 167.

Thræl, 183, 373.

Twelfhindman, 234—fully noble, 235.

Twihindman, 234. see *Ceorls*.

V.

Vavasors, 225, 226—inferior thanes, *ib* —held not *in capite*, 227.

Villans, 288—meaning of, 289—first mentioned, 290—were free, 291, 292, 295—lived on demesnes, 288—annexed, 291—base, *ib*.—but had weres, 293—were *ceorls* and *twihinds*, 185, 293—paid reliefs, 296, 297—in frankpledge, 296—their *manbotes*, 297—held as freemen, 298—and possessed some forfeitures, 299.

W.

Were, (see *Ætheling*, *Ceorls*, *Sixhindmen*, *Thanes*, and *Villans*,) 42, 295—of thanes and *ceorls*, 231—a priest's same as his father's, 190.

Wittenagemot. see *Barons*, *Ceorls*, *Eorls*, and *Thanes*.—Qualification to sit in, 191.

Wite-theow, 362.

Y.

Youngmen, 55.

FINIS.



Werner.

Heywood, Sam.

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